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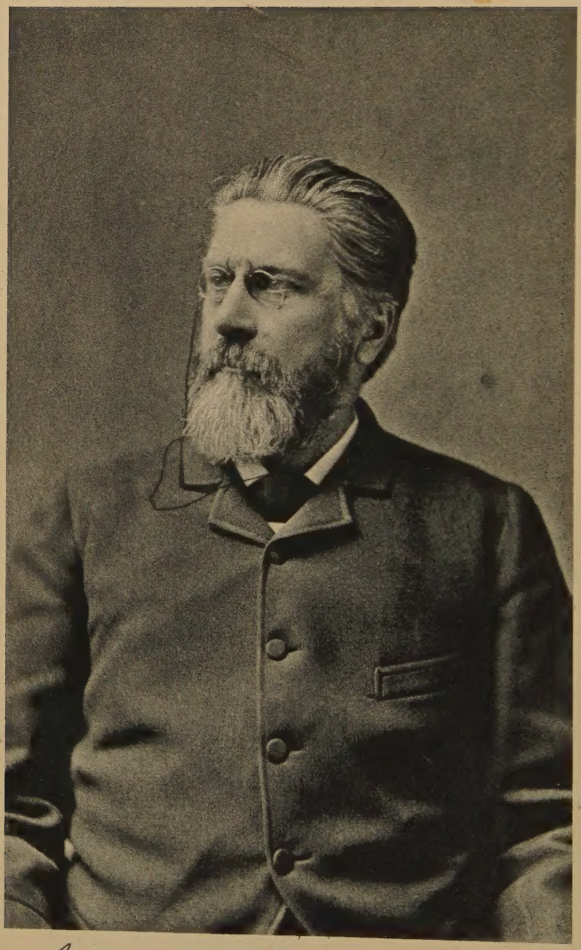

Yours sincerely
D. S. McBurney

CIVIL HISTORY

OF THE

Government of the Confederate States

WITH SOME

PERSONAL REMINISCENCES.

By J. L. M. CURRY, LL. D.,

Author of "Constitutional Government in Spain," "William Ewart Gladstone," "Establishment and Disestablishment in the United States," "The Southern States in Their Relation to the Constitution of the United States and the Resulting Union," "Thirty Years of the Peabody Education Fund," etc.

RICHMOND, VIRGINIA:
B. F. JOHNSON PUBLISHING COMPANY.
1901.

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TO

GENERAL JOHN B. GORDON,

Who, in utterance and act, has shown how perfectly consistent loyalty to the Union is with loyalty to the true principles of the Confederacy;

TO

GENERAL STEPHEN D. LEE,

The knightly soldier, the Christian gentleman, the true patriot;

TO

GENERAL JOSEPH WHEELER,

My beloved Commander, soldier of three wars;

TO

ALL THE SURVIVORS OF THE "LOST CAUSE,"

And especially to the surviving women of the Confederacy, I dedicate this little book, an humble but earnest effort to rescue them and their cause from historical injustice and unmerited censure.

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PREFACE.

I propose in this volume to write of the origin of the Confederate Government, and somewhat of the civil history, interspersing the narrative with a few personal reminiscences. Of the members of the first session of the Provisional Congress, who framed the Provisional Constitution, organized the government, elected the President and Vice-President, only two survive—Judge Campbell, of Mississippi, and myself. A few who came in at a later day still live. It is foreign from my plan to write of the military achievements and the splendid services of the army, lessening daily in numbers from sickness and battle, as this is a matter of military rather than of political history. Many volumes have recorded these glorious deeds. The skill of captains, the endurance and gallantry of those who, amid "the weary waiting for help which never came," accomplished marvels of manhood and patriotism, are now slowly acknowledged,

but the underlying principles and motives of secession still lack understanding and approval. If this little volume shall remove any prejudice or throw any clearer light on historical and constitutional truth the author will receive ample remuneration for the time and labor he has given to its preparation.

J. L. M. Curry.

CIVIL HISTORY

OF THE

GOVERNMENT OF THE CONFEDERATE STATES

CHAPTER I.

INTRODUCTION—CAUSES AND RIGHT OF SECESSION—ACTUAL NULLIFICATION—FIRST FUGITIVE SLAVE LAW—ROBERT TOOMBS—ACTION OF THE STATES.

In the Convention of 1787 there was a wide divergence of opinion as to the structure and powers of the government to be formed. The thirteen colonies of Great Britain were in their colonial origin separate and distinct. While in a few instances two were under the same governor, their legislative assemblies and their judiciary were entirely independent, and so continued up to the time of the Revolution. These distinct colonial organizations passed, upon the Declaration of Independence, into "*free and independent States*," with full power to do all

"acts and things which independent States may of right do." The Declaration, casting off executive authority, was authorized, or ratified, by each colony acting separately. After the Revolutionary War, the Treaty of Peace with Great Britain in 1782 recognized the separateness, independence and sovereignty of the States, as had been previously done in treaties with France, the Netherlands and Sweden. These States, assembled in convention through their deputies in Philadelphia to form a union more perfect than the Articles of Confederation, soon found themselves contending for different policies. A wise and patriotic compromise resulted in the Constitution, which, adopted by the deputies (those from each State voting as a unit), received in course of time the ratification of each State, and thus created the union of the States. A conflict of views, of political ideas, of difference of interpretation, existed from the foundation of the government. There was one continued agitation of constitutional questions, embracing some of the most important powers exercised by the government. Parties soon

sprang up and assumed distinct form and creed under Adams and Hamilton on the one side and Jefferson on the other. The antagonism, sharp and public, continued until 1861, and there was no disguise as to the views and principles held by the advocates of either creed.

At the time of the Declaration of Independence slavery existed in all the colonies. For economic reasons it gradually disappeared in the North; as the late Senator Ingalls said, "by the operation of social, economic and national laws." "The North did not finally determine to destroy this system until convinced that its continuance threatened not only their industrial independence, but their political importance." "The peculiar institution," from political considerations and dimly moral reasons, became the cause of angry and sectional contention. Attacks upon property in slaves in Congress, in State legislatures, in press, and pulpit and literature, in unmeasured and offensive language, made the South very sensitive, and each year the acerbation of feeling and apprehension of adverse legislation and domestic interference became stronger

and more uncontrollable. After years of angry strife and growing estrangement, the election of 1860 brought matters to a crisis. By decisive action it had been previously determined that the institution was to be "cabined, cribbed, confined" within existing limits, and that the territories, "belonging to the United States," were not open to the immigration of the Southerner with his slaves. Mr. Seward, the most prominent Republican in the country, had declared that "slavery must be abolished, and we must do it." Mr. Lincoln had declared that the country could not exist half slave and half free.

"The irrepressible conflict" found hostile expression in nullification of the Constitution and Federal laws by State legislatures and courts, in open advocacy of disobedience, and in an inflamed hostile sentiment. In the Articles of Confederation between the colonies of Massachusetts, Plymouth, Connecticut and New Haven in 1643, it was provided that "all servants running from their masters should, upon demand and proper evidence of their character as fugitives, be returned to their masters and to

their colonies whence they had made their escape."* This was the first fugitive slave law, a New England fugitive slave law, and it was substantially incorporated into the Constitution of the United States by the unanimous consent of its framers. Justice Story said in one of his opinions: "It constituted a fundamental article, without the adoption of which the Union would not have been formed." So said Marshall, McLean and Webster, and so say all candid and impartial historians to the present day. For many years no diversity of opinion existed as to the meaning and intent of the constitutional requirement. In the evolution of politics and sentiment the mandate became unpopular and was openly and riotously nullified by societies, mobs, courts and States. Fourteen Northern legislatures violated their plighted faith, defiantly pronounced the fugitive slave law void, and passed acts for its disobedience and resistance. To her credit it should be recorded that Rhode

* In 1750, Newport, R. I., had 170 vessels engaged in the slave trade, and a preserved record mentions 110 gallons of rum as the price of a slave.

Island, in February, 1861, repealed her Personal Liberty Laws and called on the sister nullifying States to put themselves right by blotting out the acts of hostility.

Right or wrong, the Southern States in unequivocal language had declared in advance their purpose not to submit to flagrant violations of the compact of union and to discriminating laws depriving them of their full and equal rights in any territory, or rendering insecure a property valued at $3,000,000,000. As far back as 1796, a governor of Connecticut expressed his wish that the Northern States would separate from the South the moment the election of Jefferson should take place. The bare election, prior to inauguration, or an overt act, was considered a sufficient cause for separation.

Lincoln's election, under the circumstances, with the avowals and belligerent acts, made it supremest folly to await the strengthening of the hands of avowed foes by the possession of the powers and patronage of the National Government. Lord Bacon said: "There is surely

no greater wisdom than well to time the beginnings and onsets of things. Dangers are no more light if they once seem light, and more dangers have deceived men than forced them. Nay, it were better to meet some dangers half way, though they come nothing near, than to keep too long a watch upon their approaches; for if a man watch too long, it is odds he will fall asleep."

Probably no one in Congress was more active, bold and able in asserting the rights of the Southern States and their purpose not to submit to inequality and injustice than Senator Toombs, of Georgia. Born of revolutionary ancestors in Wilkes county (named in honor of the English reformer and opponent of tyranny), he was one of the most remarkable men of the century. A lawyer, a farmer, a statesman, he succeeded in these pursuits beyond his fellows. With a big, warm heart, a generous, liberal nature, doing things on a scale without measure or precedent, he was a husband than whom a wife never had one more loyal and devoted; a friend which made the relations between him and A.

H. Stephens as pure and self-sacrificing as those between David and Jonathan; a patriot, never stopping to count cost nor to throw self-aggrandizement in the scale against country; a lawyer giving to clients zeal, industry, learning, everything except honor; a statesman versed in diplomacy, jurisprudence and politics, pushing his ideas beyond what timid caution prescribed into any field where genius bade him go; and an orator swaying multitudes as the storm swept the forest, and holding grave senators breathless under his exposition of dangers and remedies.

I recall an incident in a secret session of the Provisional Congress, held in the hall of the House of Deputies in the Capitol at Richmond, when the success of the Confederacy was under consideration and foreign succor, financial schemes and other expedients were under discussion. After a warm debate, Toombs took the floor, and in less than an hour, in a style dashing, free, incisive, delivered a powerful speech on our available means of safety. Every deputy sat with concentrated and rapt attention, amazed at the extraordinary ability of the man

and surprised and delighted at the seemingly wise and adequate scheme which was presented. When he closed there was almost painful silence for a considerable time, and then Robert H. Smith, of Mobile, arose and said: "Mr. President, if the gentleman from Georgia does not bring in bills to carry out what he has suggested he is a worse traitor than Benedict Arnold." The idea of Mr. Smith was that no one comprehended the situation as did Toombs, and on no other person did the obligation rest as heavily for devising and framing the adequate legislation. Nothing more was heard of the scheme.

In conversation Toombs was fascinating and bright, more suggestive and interesting than any one I ever heard, except Calhoun,* of whom

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* I recall vividly an interview just before Polk's inauguration, in Brown's Hotel, now the Metropolitan, between Calhoun and Mike Walsh. Alike thoroughly honest, no two men could have been more unlike, physically, socially, mentally. Walsh was a radical, a "subterranean" politician from New York city; Calhoun was a profound and philosophical statesman, with a trained intellect, and his mental characteristic was a tenacious grasp of abstract principle, with a tendency to metaphysical subtlety. A number of

many would say as Fox said of Burke: "He is a wonderfully wise man, but he is wise too soon." He was bold, imperious, dogmatic, epigrammatic, throwing out great nuggets of thought, which weaker men would hammer into essays and speeches. In hotels, at receptions, in places where choicest spirits would gather, he was the centre of attraction, and young and old were alike enchanted by his original utterances, striking as apothegms or proverbs. Abroad, in London and Paris, Carlyle, Napoleon and leading members of Parliament and the National Assembly, of the Bourse and the Bank, were learners from his experience and wisdom. During the war it was considered expedient by some that

visitors were assembled in the parlor, but for half an hour or more only these two men shared in the conversation. Calhoun talked of the Albany regency, of the defalcations in the New York Custom House, of the infamous spoils system with its necessary corruptions, and of the ways, dark and crooked, by which Van Buren won office. Neither Calhoun nor Toombs, in strict sense, was a converser, eliciting interchange of opinions, keeping up a battledore of ideas, but each rather indulged in monologue, saying nearly all that was said, but in a most instructive and delightful manner.

the farmers should plant provision crops instead of cotton. Toombs incurred odium by insisting upon raising upon his own plantation nearly full crops of cotton. To a committee censuring him for his course on this matter, he replied: "My property, as long as I live, shall never be subject to the orders of these cowardly miscreants, the committees of public safety of Randolph county and Eufaula. You rob me in my absence, but you cannot intimidate me."

An interesting conversation between Senator Toombs and Senator Simmons, of Rhode Island, about 1858, may be remembered by some who were in Congress at that time. The discussion foreshadowed what may be found in Vebleu's "Theory of the Leisured Class, an Economic Study in the Evolution of Institutions." Much of what the author says about the dependent class and the independent class, for which he invents such expressive epithets as "humilific" and "honorific," is almost a literal reproduction, as it is a repetition, of the ideas and original utterances of Toombs. Those who were intimate with the Georgia Senator of those

early days cannot fail to remember how often and vigorously he vindicated Southern society, and insisted that the independent leisure class constituted the fittest, the socially best, the aristocracy.

On taking leave of the Senate he specified the grievances of the South, and named the conditions upon which the States would stay in the Union: The discontented States had demanded no new Constitution, no new government, nothing but clear, constitutional rights, rights older than the Constitution. As the party coming into power had declared the Southern States outlaws, had refused to protect them from invasion and insurrection by the Federal power, these States demanded: "First, that the people of the United States shall have an equal right to immigrate and settle in the territories with whatever property (including slaves) they may possess. Second, that property in slaves shall be entitled to the same protection from the government as any other property (leaving the State the right to prohibit, protect or abolish slavery within its limits). Third, that persons commit-

ting crimes against slave property in one State and flying to another, shall be given up. Fourth, that fugitive slaves shall be surrendered. Fifth, that Congress shall pass laws for the punishment of all persons who shall aid and abet invasion or insurrection in any other State."

South Carolina made an official declaration of the causes which in her judgment justified secession. "A geographical line has been drawn across the Union, and all the States north of that line have united in the election of a man to the high office of President of the United States, whose opinions and purposes are hostile to slavery. He is to be entrusted with the administration of the common government, because he has declared that the government cannot endure permanently half slave and half free, and that the public mind must rest in the belief that slavery is in the course of ultimate extinction."

The address of the convention of the people of Georgia, written by Mr. Toombs, recited that "our people are still attached to the Union from habit, national tradition, and aver-

sion to change." It referred to our Northern confederates who had deliberately forced the issue that had been deliberately accepted by the South. "We refuse to submit to the verdict of the North, and in vindication we offer the Constitution of our country. The people of Georgia have always been willing to stand by this compact." The address further charged that the North had "outlawed three thousand millions of property of the South, put it under a ban, and would subject us, not only to a loss of our property, but to destruction of our homes and firesides. To avoid these evils we withdraw the powers that our fathers delegated to the Government of the United States, and henceforth seek new safeguards for our liberty, security and tranquillity." President Davis, to a self-constituted umpire visiting him in Richmond, said: "We are not fighting for slavery; we are fighting for independence. The war will go on unless you acknowledge our right to self-government."*

It is almost impossible for any one at the

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*4 Rhodes' History of United States, 575.

present time to realize, to enter into the spirit of, or to share, the feelings and convictions of the people of the South in 1860 in reference to the legality or rightfulness of property in slaves. A revolution, the sequence of the bloodiest and most eventful war of modern times, produced the emancipation and citizenship of millions of slaves, the sudden extinguishment of all rights of property in them—rights which had been recognized in all nations for many centuries—and the overthrow of secession as a reserved right of a sovereign State. Such a complete and radical transformation has occurred in our Constitution, in laws, in social institutions, in organized labor, in party shibboleths, in schools, in public opinion, in literature, that one might as well strive to transport himself to the antediluvian period as to assume the thoughts and sympathies and manners of the period of 1860.

It would be as easy for a French Liberal of to-day to make himself a monarchist of the time of Louis XIV., or for an English or German Protestant to accept and adopt the creed and ritual and policy of the Roman Catholic Church

of the time of Leo X., as for an American citizen to recognize and vindicate what the Constitution guaranteed as to slavery in 1860. Neither Constitution, nor law, nor the practice of centuries, can be appealed to in support of what present opinion approves. Such a writer as Von Holst, with present views and German prejudices, is incapable of passing an impartial judgment on actions of Southern States and statesmen, because slavery is to him, *semper et ubique,* a sin and a crime, and all Americans or English who assent to or defend the institution are criminals. Still, it is obvious that no justice can be done to the people of the South if the acts of 1861-1865 are to be interpreted by the standard of 1900.* In the interpretation of an-

* "The matter of slavery, so called, which was the proximate cause of these irregular movements on both sides, and which ended in the general collision of war, was of infinitely less importance to the seceding States than the recognition of the great principle of constitutional liberty. There was with us no such thing as slavery in the true and proper sense of that word. No people ever lived more devoted to the principles of liberty, secured by free democratic institutions, than were the people of the South. None had ever given

cient documents, even of the Scriptures, the critic should not be preoccupied by assumptions, nor prejudge questions and interests of a former period, nor be bereft of an apprehensive sympathy with the environments of those whose conduct and opinions are criticised. The impartial critic or historian must learn to "put himself in

stronger proofs of this than they had done. What was called slavery amongst us was but a legal subordination of the African to the Caucasian race. This relation was so regulated by law as to promote, according to the intent and design of the system, the best interests of both races, the black as well as the white, the inferior as well as the superior. Both had rights secured and both had duties imposed. It was a system of reciprocal service and mutual bonds. But even the two thousand million dollars invested in the relations thus established between private capital and the labor of this class of population, under the system, was but as the dust in the balance, compared with the vital attributes of the rights of Independence and Sovereignty on the part of the several States."—*Stephens, War Between the States, 539.*

Amos, in Science of Politics, p. 139, says: "In the beginning of this century in America, slavery was treated as a necessary and invariable concomitant sentiment of all political society, or of political society in certain parts of the world. Mere lapse of time, changes in ethical sentiment and the shock of events have rendered this mode of thought at the present day an anachronism."

his place" and cling less dogmatically to the present if he would accurately and justly portray the past.

Other and more general causes lay at the root of the movement for withdrawal. The one chief and great evil, resisted and dreaded, was the persistent overthrow of the written Constitution, the government being no longer a government of confederated republics, but a consolidated democracy. The object in quitting the Union was not to destroy, but to save the principles of the Constitution. The South being in a minority, besides unfair treatment of the slavery question, suffered from sectional legislation and a common disregard of checks intended to safeguard interests and rights. The South was taxed by duties on imports and by sectional expenditures to her injury and to the prosperity of the dominant section. The stronger section naturally struggles to maintain the superiority and inequality acquired, the weaker to throw off or diminish its burden. Where one section receives back less than it has paid into the treasury and the other more than

it has paid, then to the former it is a loss; to the latter, a gain. A system which produces these effects operates as a contribution from the section receiving less than it paid to the other that receives more than it paid. As Mr. Calhoun demonstrated, "the system, if continued, must end not only in subjecting the industry and property of the weaker section to the control of the stronger, but in proscription and political disfranchisement. It must finally control elections and appointment to offices as well as acts of legislation."

The Southern States from the beginning of the government had striven to keep it within the orbit prescribed by the Constitution and failed. It was apparent that the majority, having construed away all restraining limitations, would, by construction and usurpation, annihilate the sovereignty of the States and carry out the sectional and selfish purposes for which the Constitution had been abrogated. Conflict and supremacy being inevitable under the new theory, the weaker section could find peace and liberty only in independence.

It may be affirmed that the fears, the apprehensions, the predictions of those who favored secession have been more than realized. A few instances, drawn exclusively from the writings of Northern men, are sufficient proofs. A professor of law in a New England university cites among the evidences of assumption of power by the President and by Congress, "that great humbug, the Emancipation Proclamation, which Mr. Lincoln at the time compared to the Pope's bull against the comet," and of which Mr. Thaddeus Stevens, chairman of the Committee of Ways and Means and leader of his party, said, "that no thoughtful man ever supposed that it liberated a single slave." Not only Prof. Parker and Mr. Rhodes characterize this assumption of authority as the act of "an absolute, irresponsible monarch," but Justice Curtis, who dissented from the Dred Scott decision, also said the President had no constitutional right to issue the Edict of Freedom. Stevens, on the floor of Congress, declared that the Union should not with his consent be restored under the Constitution as it was. Also, "War abrogates all contracts. We are

now governed by the laws of war and the laws of nations alone." An ex-governor of Massachusetts declared the three kinds of power to be "judicial, democratic and despotic."* By a presidential proclamation, martial law was declared and the *habeas corpus* was suspended over the whole United States, without regard to the existence of active military hostilities in particular localities.

The friends of the President, however, did not regard this as a rightful exercise of executive power, for Congress afterwards authorized the President to suspend, and then endeavored by strained inference to concentrate the power upon itself. Functions belonging to the judiciary were transferred to military tribunals, and citizens not connected with the army were tried by military commissions. Property was confiscated without trial or conviction, and citizens were created by the wholesale. Two days after the Edict of Emancipation, President Lincoln gave the authority of an executive decree to

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* 2 Winthrop's Address, 630-633.

Stanton's arbitrary orders, created the new offences of any disloyal practice, of discouraging enlistments, and ordered that such offenders, and those who afforded aid and comfort to the rebels, should be subject to martial law and liable to trial and punishment by court-martial and military commissions, without privilege of *habeas corpus*.* Senator Hoar, in the Senate the 2d of June, 1900, said: "The courts-martial during the Civil War were a scandal to the civilized world."

These excesses of tyranny did not cease with the war. In the midst of profound and established peace, when there was not a soldier in arms against the government, fortresses were crowded with civilians without warrant or form of law, and a distinguished citizen was imprisoned and manacled and subjected to the espionage of incessant gazing and to indignities worse than St. Helena or Olmutz or the Bastille. As the victim was wasted by disease and

*4 Rhodes, 104.

harmless, the fetters and watching were not so much a victory as a vengeance.

The contradictory action in reference to the seceded States partook of farce and tragedy. The States were treated sometimes as *in*, sometimes as *out*, of the Union; sometimes as conquered territories, sometimes as States; sometimes as entitled to representation, sometimes not; sometimes as inchoate States forced to ratify amendments, and then were refused the exercise of their rights and privileges. The series of reconstruction measures, in bald usurpation, in mad tyranny, in the essence of diabolism, in the deliberate purpose to give supremacy to negroes in some States (as South Carolina, Mississippi and Louisiana, where by the census they had the majority in population), and to Republicans in all, has no parallel in the annals of the Borgias and the Caesars. The effort was made, and it succeeded, to force upon States a radical change of institutions in relation to matters which had been exclusively within the control of the States, and over which the government

of the United States had no control, and could have none except by usurpation.*

South Carolina did not desire to take the lead of her sister States, but being in session for the purpose of appointing presidential electors, she felt first the blow inflicted by the election of an enemy to Southern institutions, and called a convention to take the proper steps to save the Commonwealth. On December 17, 1860, the convention assembled in Columbia. It was a body of men of large experience and ability, of

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* See Professor Parker's Three Powers of Government, pages 14, 15, 18, 21, 25, 26, 63, 64, and 92.

The Hon. Caleb Cushing, in reply to an invitation from his fellow-citizens of Newburyport, in 1860, to address them on the State of the Union, said: "So long as the State of Massachusetts perseveres in this nullification of the Constitution, she affords, not a pretext only, but a justificatory cause to the State of South Carolina, to that of Georgia, Alabama, Mississippi, or any other State otherwise disposed to secede; for the violation of the fundamental compact of association by one of the contracting parties serves, in morality as well as law, to release the others; and the unconstitutional and dishonorable attitude of the State in this matter is not less mischievous in another respect—to wit, its obvious tendency to paralyze the conservative efforts of other Southern States not yet

congressmen, judges, lawyers, professors, preachers and farmers. On the 20th the convention by unanimous vote solemnly declared and ordained that the ordinance adopted in convention May 23, 1788, whereby the Constitution of the United States was ratified, and all acts of the General Assembly ratifying amendments of said Constitution were repealed, and that "the Union, subsisting between South Carolina and other States under the name of the United States of

prepared to secede, such as Maryland, Virginia, North Carolina, Kentucky and Tennessee. I think there is a duty in this behalf which it is incumbent on Massachusetts and every loyal citizen of the State to perform; one which it is never too early to enter upon and never too late to persist in, and which it is peculiarly fitting for us to undertake now—namely, to repeal unconditionally these laws, which are scandalously false in their profession of purpose, which are tyrannical in their domestic and treasonable in their Federal relation, and which misrepresent the spirit and disgrace the legislation of our Commonwealth. As this is the duty of all, it is the duty of every one, and, therefore, it will give me pleasure to speak on the subject, to expose the gravity of the situation; to demonstrate our obligation regarding it, and to participate with you in the initiation of measures for the wiping out of this foul blot from the escutcheon of the State of Massachusetts."

America, is hereby dissolved." After the ordinance was engrossed and enrolled with the great seal of the State attached, the president of the convention proclaimed South Carolina an independent Commonwealth. The vote on the ordinance was telegraphed to the members of Congress in Washington. It was at once made known, and in a few minutes every member of the House, of which I was then a member, learned of the great event. Business went on without interruption. Some contemptuous expressions and sneers were visible and audible on the Republican side, especially from one representative, who later said: "There is an eternal antagonism that must be settled, and we may as well have it settled now as at any other time."

In ordaining separation from the Federal Union, the State acted alone, without waiting for coöperative action, but expressing an earnest desire for, and most cordially inviting, the formation of a Southern Confederacy. Commissioners were appointed to the several Southern States, inviting their coöperation, and deputies were elected to meet those from other States

which might secede, for the purpose of forming at an early period a provisional government and to consider and propose a constitution and plan for a permanent government.

Florida and Mississippi, the latter on the 9th of January, soon followed the example of South Carolina. On January 11, 1861, Alabama in convention withdrew from the Union, declaring herself a sovereign and independent State. By the same ordinance, the people of the Southern States were invited to send delegates to meet in convention in the city of Montgomery on February 6, 1861, for the purpose of "consulting as to the most effectual mode of securing concerted and harmonious action in whatever measures may be deemed most desirable for the common peace and security." An appropriation of $500,000 was voted for the Confederacy when formed. The secession of Georgia and Louisiana was not long delayed. It was affirmed that "the question of slavery moved not the people of Georgia half as much as the fact that their rights as a community were insulted. There are thousands and tens of thou-

sands of people in Georgia who do not own slaves. A very large portion of the people own none of them." The address previously quoted from concludes: "To avoid these evils we withdraw the powers that our fathers delegated to the Government of the United States, and henceforth seek new safeguards for our liberty, security and happiness."

In *seceding* from the Union to which, in the language of Washington and Jefferson, each had *acceded* as a sovereign State, the States by a very simple and orderly process repealed the ordinances by which the Constitution was ratified and agreed to, and by which each State became a party to the compact. Thus the State declared herself bound no longer by that compact and dissolved her alliance with the other parties to it. South Carolina, Georgia and other States sustained the same relation to the Federal Government and the States remaining in the Union, that Rhode Island and North Carolina did before they ratified the Constitution and became members of the Union. Not unfrequently one hears in speeches, or reads in pretentious trea-

tises, full of vulnerable logic and superficial history, that secession was not a justifiable remedy, because the Constitution grants no such right to a State.

What is politic or expedient may be entirely different from what is legally right. The right of a mode of redress is one thing; its wisdom or expediency, quite another. One has the vaguest idea of the nature and character of our Federal Government, of its vital and fundamental principles, who searches the Constitution for the rights of the States, or limits those rights to what may be found among delegated powers. Secession, or the right to resume delegated powers, or withdraw from the Federal republic, did not come from the Constitution, but from State sovereignty. Such fallacies spring from an entire misapprehension of the nature of our Federal Government and of its origin. Historical facts, which no one of intelligence or candor can deny, show that the Government of the United States was Federal in its origin and in the common bond.

From the Declaration of Independence

sprung thirteen separate and distinct republics, and these set up a great Federal republic, whose constituents were thirteen distinct, sovereign States. "In that character they formed the old Confederation, and when it was proposed to supersede the Articles of the Confederation by the present Constitution, they met in convention as States, acted and voted as States, and the Constitution, when formed, was submitted for ratification to the people of the several States. It was ratified by them as States, each State for itself; each by its ratification binding its own citizens; the parts thus separately binding themselves, and not the whole the parts; and it is declared in the preamble of the Constitution to be ordained by the people of the *United States*, and in the Article of Ratification, when ratified, *to be binding between the States so ratifying*. The conclusion is inevitable that the Constitution is the work of the people of the States, considered as separate and independent political communities; that they are its authors—their power created it, their voice clothed it with authority; that the government

formed is in reality their agent; and that the Union, of which the Constitution is the bond, is a union of States and not of individuals."*

The Constitution closes in Article VII. with this significant declaration: "Done in Convention by the *Unanimous Consent of the States present.* . . . *In Witness* whereof We have hereunto subscribed our Names." Then follow the names of "Geo. Washington, Presdt and deputy from Virginia," and the names of the deputies from other States.

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*6 Calhoun's Works, 147–148.

CHAPTER II.

ORGANIZATION OF THE GOVERNMENT—HOWELL COBB—PROVISIONAL CONSTITUTION—ELECTION OF PRESIDENT AND VICE-PRESIDENT—A. H. STEPHENS—INITIATORY LEGISLATION—SELECTION OF CABINET.

The Convention of Deputies from six States met in Montgomery, in the State Capitol, on February 4, 1861. Each of these States had, of necessity, seceded separately in reclaiming its original sovereignty, but with the expectation and purpose of forming a new and closer bond of union with sympathizing sisters, thus ensuring domestic tranquillity and securing the blessings of liberty to themselves and their posterity. Their object was pacific and protective, and in no sense or manner to interfere with any right or privilege of the North. One recalls how quiet, orderly, dignified, with a deep sense of responsibility, was the assemblage. There were no array of armed battalions, no glittering uniforms, no blare of trumpets, no military move-

ments, no offensive display of appeals to passion or pride. Men not unknown in Federal and State councils came together, not as conspirators, or anarchists, or disturbers of the peace, or aggressive violators of law, but as accredited representatives of sovereign States. Of necessity prompt action was demanded for concert and strength. The proceedings were deliberate, conservative, in accordance with established parliamentary precedents, and with what had been consistently and uninterruptedly claimed from the origin of the Federal Union. The Provisional Congress was composed of men seriously and assiduously seeking the public weal and the discharge of solemn obligations. The discussions, mainly in secret session, were able and instructive, and in the most friendly and patriotic spirit. While many participated in debates and all were actuated by an unselfish purpose, it is not invidious to mention Stephens, Toombs, Howell Cobb, Hill, T. R. R. Cobb, Rhett, Memminger, Smith, Walker, Harris, Campbell and Conrad, as among the chiefest contributors to the work of framing the consti-

tutions. In addition to these and recognized for wisdom and experience should be mentioned Barnwell, Withers, Nisbet, Chilton, Harrison, Kenner, and others.

The Congress and the cause brought to Montgomery a large number of interested visitors, many of whom were women of culture and refinement and gushing patriotism. The Capitol was crowded every day with persons watching the proceedings with anxiety and subdued earnestness, and sharing with joy in everything that promised a peaceful and successful issue of the novel experiment. An illustrative incident may be pardoned. Years preceding 1861 there occurred in Tennessee a controversy and collision between two young lawyers, Anderson and Taul, which resulted in the death of the latter. The fatal dispute, with tragic termination, created an inextinguishable hostility between the two families. One day Mrs. Bradford, a friend and constituent of mine, was sitting on a sofa in the lobby, in conversation with Governor Morton, of Florida, and myself. After awhile the Governor arose and asked permission to introduce a

colleague. Consent being given, he withdrew to the chamber, separated from us only by an iron chain between the columns. I was astounded to see him returning with Colonel Patton Anderson, the brother of the man who had killed Taul. Familiar from many recitals with the sad occurrence, I could not imagine how the matter would end, but the Governor, ignorant of the antecedents, said: "Mrs. Bradford, I have pleasure in presenting my friend and colleague, Colonel Anderson." The lady, small of stature, drawing herself up to fullest height and with her large, brown eyes looking Anderson square in the face, said: "I am the sister of Thomas Taul." Anderson, with utmost calmness and chivalrous courtesy, replied: "I am aware of it, Mrs. Bradford, and no one can regret more than I that unfortunate affair. We are entering upon a struggle the end of which the wisest cannot foresee. It will require the united strength and wisdom of every man and woman in the Confederacy. I should greatly prefer, if you are willing, to let by-gones be by-gones." The little woman, with a nobility that

elevates the whole sex, extended her hand, and the two sat down and talked, without a shade of ill feeling, upon the events of the hour.

Howell Cobb was, on motion of R. Barnwell Rhett, of South Carolina, elected President of the Congress. This tribute to high character and great excellence was paid to the most popular member of the body without a dissenting vote. At the bar, on the hustings, in Congress, as Speaker of the House of Representatives, as Secretary of the Treasury, as Governor of his State, he had been trained in schools which fitted him for wise statesmanship. In 1851, against many of his party associates, he resisted the attempt to make the "Compromise Measures" the occasion for a disruption of the Union, and was elected Governor by an unprecedented majority. When ten years later there seemed no hope of protecting the interests and honor of his State against powerful and unreasonable aggression, he resigned the portfolio of the Treasury Department and threw himself with impetuous ardor and courage into the contest for the preservation of the Constitution and for State equality.

Governor Cobb had a noble, generous, affectionate nature, shrewdness, sagacity and common sense, a real and sincere judgment to lean on, was unselfish to an extreme degree, and few public men had a larger group of devoted friends. In his remarks accepting the place of presiding officer, he said the separation was "perfect, complete and perpetual," and that it was the duty of Congress to "provide a government for our future security and protection and maintain with our late Confederates in the Union friendly relations, political and commercial."

On the same day, on motion of Mr. Stephens, a committee on rules was appointed. He soon reported a code which very much simplified parliamentary procedure and facilitated business. Mr. Stephens was proud of his connection with the improvement, and published in his work the whole report. The simplification of the artificial "previous question" has been adopted by legislatures and is incorporated into many codes. On the second day Mr. Memminger was appointed chairman of the committee to report a plan for the formation of a provisional govern-

ment. He had published, in advance of the meeting of the body, a scheme for a provisional government, and was, therefore, prepared to act without delay.

Mr. Memminger was of German origin, and being left an orphan at an early day, was indebted to generous friends for his education. This experience made him an active friend of public schools, and he remained connected officially with the system until the day of his death, one of the leading schools in Charleston still bearing his name. Thoroughly religious in conviction and habit, his influence was always on the side of virtue and temperance, and in law and politics he never severed himself or his conduct from the strictest standard of integrity and truthfulness. He became Secretary of the Treasury when the first Cabinet was appointed, and filled the difficult, one may say impossible, post until July, 1864, when the heavy duties had so affected his health that he was compelled to resign. Mr. George A. Trenholm, his fellow-townsman, became his successor.

The adoption of a temporary general govern-

ment being a most urgent step, allowing no time for delay unless each State was to remain separate, the committee reported a constitution for a provisional government, which on February 9th had unanimous approval. The transition was easy and orderly. It was not a revolutionary procedure, for the South in her whole history had never disregarded just obligations nor failed to perform her constitutional duty. As the Duke of Wellington said of the Reform Act of 1832, it was "a revolution by due course of law."

At one time it was proposed in one of the States to adopt a rattlesnake, couchant and ready to strike, with the motto, "Do not tread on me," or *Noli me tangere*, as indicating a wish to be left alone.

The new government sprang forth as by magic. No large degree of statesmanship was required in this hasty organization. Identity of conviction and community of interests made a *pro hac vice* government an obvious need. The seceding States had prescribed conditions and restrictions as to conformity to the Constitution of the United States with which the depu-

ties and their constituents were so familiar. South Carolina, Alabama, and other States, in their suggestions for a convention to frame a new government, required that the Constitution should be "upon the principles of the Constitution of the United States." There was a marked and purposed agreement with the Constitution of the United States, as in this authoritative exposition it was the intention to reënact what the people approved, thereby vindicating the oft-repeated declaration that the States withdrew not from the Constitution, but from the wicked and injurious perversions of the compact. The changes were only such as the urgent necessity of the peculiar occasion demanded. The Constitution of the United States was copied with almost literal fidelity, differing from that of the fathers only in so far as it was explanatory of their well-known intent. There was little departure from the text beyond what was made necessary by a single legislative body and the guarantees which the novel situation required. While some of the constituent parts were slightly altered, the system remained. In his

inaugural President Davis said: "The Constitution formed by our fathers is that of these Confederate States, in their exposition of it; and in the judicial construction it has received we have a light which reveals its true meaning."

With the opinions and traditions held by all, the first step was to organize a united government with a written constitution, so that the States which had severed their ties with the old government might safely be confederated into a union for the common defence and general welfare. The strife, which began in the convention of 1787 and had been continued with increasing bitterness and danger, until it reached its culmination in the dominance of a party with its chosen President committed to hostility to the institutions of the South and unmindful of checks and guarantees which had been precautiously provided for the protection of minorities, left the States no alternative but to disrupt their former relations with the Union and to bind themselves in harmony and concord for liberty to themselves and their posterity. Prompt action was required to make a national

organization with requisite powers to sustain the government, to command respect and obedience at home, to secure recognition abroad, and to guard against any possible attacks or interference.

Following the adoption of the Provisional Constitution on February 9th, came the election of a President and Vice-President, who were to hold their offices for one year, or until the nascent government should be succeeded by one more stable. These officers were elected by ballot, each State casting one vote. There had been no electioneering, no management, no bargaining, no promises. Who should be President engaged earnest attention, and there was naturally some difference of opinion as to the fittest person for the high office. The qualifications of Davis, Cobb, and Toombs were quietly canvassed, but the differences were not so pressed as to cause delay of action or any ill feeling. Some deputies favored Cobb, some Toombs, but Davis received unanimous and cordial support.

Besides large civil experience as Secretary of War and member of Congress, in which posi-

tions he had won merited distinction for scholarship, ability and integrity, Davis had had military experience in the Mexican War, where he had distinguished himself for courage and tactical skill, and it was known that his tastes and preferences were for military station. Mississippi, immediately on her withdrawal, had made him Commander-in-Chief of the forces the State was raising in anticipation of a possible conflict, and he was engaged in their organization, when by a special messenger dispatched for the purpose he was informed of his elevation.

His journey to Chattanooga, Marietta, Atlanta and Montgomery was a splendid ovation. At every point on the railway, until on February 15th he reached the Confederate Capital, he was greeted by thousands. On the 18th he was inaugurated, delivering his address and taking the oath on the steps of the Capitol building, in presence of a great assemblage, which, in hushed and reverent silence, had been led in a prayer, impressive and comprehensive, by Dr. Basil Manly, formerly the president of the University of Alabama, in which he said: "We

appeal to Thee to protect us in the land Thou hast given us, the institutions Thou hast established, the rights Thou hast bestowed." The ceremony completed, cannon were fired, the first by a granddaughter of ex-President Tyler. The city was illuminated at night and the President gave a reception.

The inaugural was marked by simplicity, directness and frankness. Neither seeking nor desiring the exalted position, the President expressed, in strongest terms, the wish of his country for peace. It is an absurd fallacy that destruction or injury of those from whom the Southern States had separated was intended or desired. The Northern States were at undisturbed liberty to retain their union and their government. These were not in any way threatened.

The utter unpreparedness of the seceding States and of the Confederacy for war is the demonstration, absolute and impregnable, of the purpose and expectation of peace. There was an absence of establishments for manufacture or repair of weapons and of arsenals with

supplies of arms and munitions. The seceding States sought only to erect a government of their own. That it was the perversion of the ends of the Union, and not the Union itself, which had caused the regrettable separation, is made clear by the adoption of the organic law and the early legislation of the Confederate Congress, most of which was limited to putting upon the statute books such laws of a general and necessary character as had become imperative by the withdrawal from the Union. On February 12th, the Confederate Government took under its charge all existing questions between the two governments relative to occupation of forts, arsenals and other establishments, and the States were requested to cede forts and other public property of like character to the Confederate Government. The very first enactment after the adoption of the Provisional Constitution was the continuance in force, until altered or repealed, of all United States laws not inconsistent with the laws of the Confederate States, and very soon afterwards, February 25th, the free navigation of the Mississippi was declared and

established. All the expressions, all the acts, all the laws of the Confederate Government show an earnestness of desire and purpose to separate peaceably from those with whom they could not live on terms of equality and amity.

On Thursday, the 11th, Mr. Stephens accepted in open session the Vice-Presidency. Excusing himself from any elaborate presentation of his views, as it would be indelicate to anticipate what the Chief might say, he suggested several matters of general interest which required attention. Among these were the transfer of customhouses from the jurisdiction of the separate States to the Confederacy, the imposition of duties to meet present and expected exigencies, and the adoption of a permanent constitution, which, in fact, was one of the leading objects of Congress.

One might travel far and see many thousands without finding counterpart or parallel of Alexander H. Stephens. His life amid difficulties and dangers appears like a miracle. Tall, spare, not weighing over one hundred pounds, nearly bloodless. with a feminine voice and appearance,

he seemed incapable of physical labor or fatigue, and during the war, when many fled from districts exposed to incursions from the enemy, he was often jocularly spoken of as "a refugee from the graveyard." Of parentage of moderate means, he was educated up to graduation from the University of Georgia by some generous and sympathetic women, who discovered in him personal virtues and mental precocity. Afterwards, when he decided on a profession different from what the ladies desired, he returned in full measure, with interest, what had been advanced in his behalf. His own generous nature and grateful sense for what had been done for him in poverty, made him through life a benefactor of young men, and more than a hundred were aided by him in academy and college. "Liberty Hall," where he lived, was an open and hospitable home, where thousands, rich and poor, distinguished and obscure, were gladly entertained.

At the bar Stephens attained exceptional success. His legal knowledge, diligently acquired, his disciplined faculties, his marvelous eloquence, were the elements of his professional

distinction. In the Legislature and in Congress he found a fit and congenial arena for his tastes, studies, ambition and patriotism. In all stations, private and public, as Representative, Vice-President and Governor, he discharged his duties fearlessly, conscientiously and ably, and died without a stain upon his reputation, the idol of friends and constituents. As a stump speaker he had few equals. His remarkable physique, his penetrating voice, lucid statements, ingenuous frankness, humor, satire, repartee, eloquence, made him a great favorite. In the House of Representatives in 1859 he achieved a grand triumph when the admission of Oregon as a State was under consideration. For many reasons it was opposed, and the Southern members were unwilling to have the predominance of the North increased by another State. When Stephens arose, writing at desks ceased, newspapers were laid aside, and every person, on floor or in gallery, gave undivided attention. In clear, incisive style, by strong argumentation and earnest appeal to rise above unjust sectionalism, he pleaded for the new State. Drawing illustra-

tion from Ezekiel's vision of wheel within wheel as typical of Federal and of State governments, he closed with a burst of eloquence that thrilled every hearer and made the admission no longer one of doubt or hesitation.

Soon after his inauguration, the President proceeded to the selection of his Cabinet, the Congress having authorized the departments of State, Treasury, War, Navy, Justice and the Post Office. This executive duty, now so much discussed, with suggestions of innumerable persons with varying degrees of fitness, causing much sectional and personal disappointment and ill feeling, was discharged with ease and to the general satisfaction. The unanimity of the people, their unselfish devotion to the country's interests, the absence of cliques and personal rivalries and party claims, enabled the President to look only to capacity. The departments, in the order mentioned, were filled by Robert Toombs, of Georgia; C. G. Memminger, of South Carolina; L. P. Walker, of Alabama; S. R. Mallory, of Florida; J. P. Benjamin, of Louisiana; and John H. Reagan, of Texas. Mallory, Reagan,

and Benjamin remained as the President's advisers during the life of the Confederacy, the first two in their original places, the last transferred first to the War and afterwards to the State departments. R. M. T. Hunter, of Virginia, was for a time in the State Department; G. W. Randolph and James A. Seddon, of Virginia, and John C. Breckenridge, of Kentucky, in the War; Trenholm, of South Carolina, in the Treasury; Watts, of Alabama, and Davis, of North Carolina, in the Department of Justice.

Texas seceded on February 14th, but her delegates, not having arrived until after the adoption of the Provisional Constitution and the election of the President, were authorized by a special vote of Congress to sign the Constitution, and on March 2d they affixed their signatures to the instrument.

Much necessary legislation and departmental work were accomplished to adapt the new government to environments, to prevent inconvenience and friction from suspension of federal laws, and to supply the necessary equipments. Agents, among whom was Raphael Semmes, af-

terwards the brilliant commander of the "Alabama," were sent abroad and to Northern cities to make all possible preparation for the deprecated contingency of war.

CHAPTER III.

CONFEDERATE STATES CONSTITUTION—SIMILARITY TO THAT OF THE UNITED STATES—DIFFERENCES—CHARACTER OF THE CHANGES—EXECUTIVE RESPONSIBILITY — INELIGIBILITY — RESTRAINTS ON EXPENDITURES AND ON EXECUTIVE PATRONAGE—MEMBERS OF CABINET IN CONGRESS—"PROTECTION"—SLAVE TRADE—WISDOM OF CHANGES IN THE LIGHT OF PRESENT CONDITIONS.

The Provisional Constitution and Government were temporary and tentative expedients to meet emergencies, and it was understood that a permanent government should supersede the temporary within a year or perhaps sooner. Time was taken from necessary legislation to devise, consider, discuss and adopt for State ratification a permanent constitution. This was a more serious matter than had been the transient and ephemeral scheme under which the Confederacy was bravely meeting heavy responsibilities.

In the deliberations were exhibited the

powers of the best minds, the learning of jurisconsults, the legislative experience of the members, and the convictions of what the history of the United States had shown to be weaknesses or failures in the old system. On the day of the election of President and Vice-President a committee for framing a constitution for a permanent government, composed of two members from each State, was appointed, with R. Barnwell Rhett, of South Carolina, as chairman. This committee was in permanent session, and made its report on the 26th of February. The final unanimous vote on adoption was taken on the 11th of March.

The debates on the Constitution, frequent, sparkling, earnest, learned, were conducted in the best spirit, and there predominated the one controlling desire to devise a system which would stand the test of antagonism and result in the welfare of the people and the safeguarding of human rights. It cannot be considered invidious, when, with due and strong acknowledgment of general and special merit, it is stated that Rhett, Cobb, Stephens,

Toombs, Hill, Smith, Walker, Campbell, Conrad, Withers, were the men who did most towards suggesting and enforcing the changes which were adopted. The difficulties were much minimized by the attachment to the old Constitution, to which the South from the beginning of the government had given a consistent, cordial and loyal support. The South had relied on a faithful adherence to the Constitution as the surest security of the rights of the States, as the guardian of what she held most dear, and as the only bond and assurance of the Union, as framed by the fathers.

The main features of this model were readopted, and only such changes were made as were explanatory of the well-known intent of the authors, remedial of the evils which had provoked secession, purgative of the vicious interpretations of selfish majorities, and to secure the accomplishment of the true ends of the Confederacy. To build up with greater security and permanence a constitutional confederacy commanded the energies and patriotism of a body of men than whom Mr. Stephens, with his

large experience, said he had never associated with an abler. "They were men of substance, of solid character, of moral worth, versed in the principles and practice of government, and some of them amongst the first men of the continent." Reformation of the Union was the cardinal object. Many of the changes were verbal, introduced for clearness, to prevent ambiguity and to settle controversy. The work of their hands refutes the common charges of unholy ambition, conspiracy, treason, preference for a monarchy; and unprejudiced critics should accept it as a most trustworthy exposition of the opinions and principles of those who did it. The framework of government, adopted unanimously by the Congress on March 11th, and ratified promptly by the seceding States, asserted the derivative character of the Confederacy, the equality and sovereignty of the States, the limitations upon the powers of the General Government, and devised such restrictions as to make almost impossible future aggressions and usurpations.

These specific enumerations and reserva-

tions were made necessary by the action of the Federal Executive and Legislature, and have been justified by the claims put forth by writers on constitutional law. A well-known writer on "Constitutional and Political History" ventures on the singular statement that the States had no existence anterior to the formation of the Constitution, apparently heedless or ignorant of the fact that the Declaration of Independence recognizes their sovereignty and independence, and that treaties with France, the Netherlands and Sweden during the Revolution, and with Great Britain at the close of that war, enumerated the States by name and treated with them as such.

As so much misapprehension and misrepresentation becloud the American mind in reference to the Confederate Constitution, it may be well to present anew some of the more important changes. When such men as Edward Everett and Motley affirm that in the Constitution of the United States the States are not named, one can hardly be astonished at the gross ignorance of the Confederate Constitution.

In the appendix to this volume the two constitutions have been published in parallel columns, with changes in italics, so that at a single glance the similarities and differences may be seen. In "The Southern States of the American Union," pages 191-213, a full analysis and comparison of the two instruments are made.

The convention of 1787 submitted for the ratification of the States the articles of union known as the Constitution. The parties to which this Constitution was submitted were the several sovereign States, with undoubted power to accept or reject. In the event of the favorable action of nine of the States, the compact was to be binding over those concurring, and the Federal Government, as the common agent, was to be invested with the delegated powers. North Carolina and Rhode Island declined for a time to accede, and until after the inauguration of Washington continued in the exercise of functions as separate, independent, sovereign nations, and no one had the temerity to propose their coercion into the Union.

By the Constitution, as ratified and made

"the supreme law of the land," certain duties were recognized as obligatory on the States, and the exercise of certain powers was restrained. This necessarily implied the continued existence of the States, as retaining, or reserving as sovereigns, all the powers and rights which they had not prohibited to themselves nor delegated to the United States. The Federal Union became a government with defined objects and powers, limited to the express words of the grant, or what was a necessary implication. This determination left the residuary mass of powers in the hands of the States, or the people thereof, and rendered unnecessary any specifications of what was reserved. There are no vagrant powers, no "derelicts," subjects of wind and wave, seeking a resting place.

In the Union, as creatures of the Constitution, are three divisions of powers:

(a) A grant to the Federal Government.

(b) Prohibitions on the exercise of certain powers by the Federal Government, by the States, or by both these agencies, and

(c) The retention of the remaining mass of

power in the States, or in the people of the States.

Freeman says: "The American Constitution, with its manifest defects, still remains one of the most abiding monuments of human wisdom, and it has received a tribute to its general excellence, such as no other political system was ever honored with." The copying by the Confederate States of this model to which the English historian refers, was none the less an honoring tribute, but the more because the contention was that the Constitution had not been observed, and that its guaranties and provisions had been disregarded for sectional and selfish purposes.

The seceding States were not dissatisfied with the Constitution, but with its administration, and their avowed and manifest purpose was to restore its integrity and secure in the future its faithful observance. The permanent Constitution was framed on the State Rights theory, to take from a majority in Congress unlimited control, and to give effective assurances of purity and economy in all national legislation. A careful examination of its features will demonstrate

that the seceding States were deeply attached to the plan and principles of the old Constitution, which is so often eulogized as the palladium of American liberties. The wisdom and conservatism of the framers of the new Constitution will be amply vindicated by a consideration of the reforms which were attempted.

No subject proved more perplexing than the mode of electing a President. Fortunately, there have been preserved for our instruction records of the proceedings of the Constitution of 1787, so faithfully made by Madison and others. The members of that remarkable body of patriots seem to have had no clear convictions as to the best method of choosing an executive. They were harassed by fears of a monarchy. The election by Congress came near adoption. Various other plans found partial favor. The plan ultimately incorporated into the Constitution found, late in the session, strange to say, a nearly unanimous vote. This doubtless proceeded, in a spirit of compromise and as a tentative plan, from the contrariety of views which had been expressed, and from the

apparent impossibility of harmonious agreement.

The experience of the convention of 1787 found repetition in that of 1861. No proposed change of the organic law, which was adhered to as a model, excited more discussion than what was suggested in reference to the election of a President. What is now in force in the United States had few, if any, friends. The fathers provided an electoral college, each State choosing as many electors as it has representatives in Congress, and it was hoped that these electors would be an independent reality, exercising an unbiased judgment, in selecting the best man with an eye single to the public interest. They were expected to stand between the office and the people, to study the fitness of men and select according to fitness. While the letter of the law remains, the intent has been entirely frustrated, as the intermediate electors have no independent opinions and are pledged agents to vote for a chosen candidate on a prescribed "platform."

What was meant as a check, a restraint,

upon party control and excess, has become its most efficient instrument. An elector, disregarding the will of his party, as expressed in the national caucus, would be ostracised as a traitor. Practically dispensing with the intermediary agency and exalting power and influence of a national caucus have made a presidential election the main object of political management, absorbed public opinion, and dominated all other elections from that for a constable to those for governors or senators. The election is now a gigantic party struggle, never ceasing, and determines in its result the policy of the administration and the distribution of offices. Hence, party organization is compact and despotic, heartless and resistless; is controlled by manipulations of a few bosses; a place as delegate in a nominating caucus is greedily sought for; a campaign fund, aggregating millions of dollars, spent without audit or accounting of any kind, is secured by assessments or voluntary contributions, to be reimbursed by offices, contracts, appropriations, or legislative discriminations; and every neighborhood, from

the Atlantic to the Pacific, is stirred to its depths by these quadrennial agitations.

Mr. Teller, in the United States Senate, June 1, 1900, "felt that he was justified in saying that the tactics of 1898 consisted in levying assessments upon any manufacturing institution in the country, and that it was notorious that the national banks were assessed for that purpose." Machine politics control nominations. Availability is more sought after than merit. In a party caucus everything is "cut and dried" in advance—the presiding officers, the speakers, and the platform. "Bosses" are deferred to in all things.

To reform a system essentially vicious commanded serious effort, and numerous proposals were debated and referred and voted upon. While all favored some change, it was not found possible to agree upon any scheme which was free from objection. The condemned mode was retained with the hope that some of the evils of the old system might be remedied. I remember well that the reluctant acquiescence in the retention of what none favored was in the strong

hope that what was temporary might be adjusted under more favorable conditions. Hence, in the Executive Department were some radical changes, made so as not to deprive the country too soon of the experience, ability and services of the President just when they were most needed.

The tenure of the office was fixed at six years, and the President was made ineligible for a second term. President Hayes, after expiration of his term of office, being asked to suggest needed changes in the Constitution, mentioned only these two. All the great muniments of freedom, wrung from the grasp of tyrants, have been protests against the arbitrary exercise of executive power. By a wise jealousy of executive usurpation, the people have sought protection in a written constitution and in specific guarantees. As under our system, the President is practically an appointee of irresponsible bodies of men, and the triumph of a party is of more consequence than the public welfare, and the patronage of a President is used as spoils of office for rewarding partisans or silencing free

thought, and the halls of legislation have become arenas for personal disputes and disgraceful strifes, it was deemed wise to make these great changes.

When the Chief Magistrate is a candidate for a second term, he is tempted to use the immense patronage and influence of his high office to secure a renomination and success at the polls. Nearly everything is made to bend to that one ambition.. The weaker or more pliable the President is the greater the possibilities of evil. He may forget the good of the country in his candidacy and yield to persuasions or motives which may make him the instrument of those who are ambitious, or designing, or self-seeking.

Every one familiar with Federal legislation knows how common it is to load bills with objectionable items. "Log-rolling" has become so frequent as to have assumed a distinct legislative or political meaning. Combinations of interested persons and interests succeed in fastening upon the treasury bad schemes which singly could not pass either house of Congress. Upon the Confederate Executive was devolved

largely the responsibility of estimating and asking for appropriations with a view to an economical administration and to a better guardianship of the treasury.

Unless asked and estimated for by the heads of the departments through the President, Congress could not make an appropriation, except by a vote of two-thirds of both houses, taken by yeas and nays. For its own expenses and certain judicially determined claims this restriction did not apply. Further to secure the people against extravagant, corrupt and illegitimate expenditures, the President was empowered to veto particular clauses in an appropriation bill and to approve others. By several devices, power and responsibility were lodged in the same hands. The initiative in disbursing revenues was placed, in a large degree, in the hands of the President, who, with his official advisers, became a kind of legislative committee, as in the House of Commons, to watch receipts and expenditures and make broad suggestions for raising necessary revenue or lessen-

ing taxation. Every law must relate to but one subject, which must be expressed in the title.

The treasury was required to publish at stated intervals its receipts and disbursements by items. These precautionary measures, with others to be mentioned, limiting the power and objects of taxation, were in accordance with the history of public men at the South. In his "Twenty Years in Congress" Blaine says: "The Southern leaders were especially careful of the public money. They believed in an economical government, and throughout the long period of their domination they guarded the treasury with rigid and increasing vigilance against every attempt at extravagance and every form of corruption."

As corroborative of this just compliment, an anecdote may be related of the Hon. Elihu B. Washburne, long a distinguished member of Congress and our most excellent Minister to France during the Franco-German war. In the autumn of 1865, I called on President Johnson to obtain a pardon. He promptly granted my request. Having some hours of leisure be-

fore the departure of the Southern train, I visited the Capitol. Discovering from the gallery where Mr. Washburne was sitting, I descended and sent him my card. He came out immediately and gave me a most cordial reception, as our relations before the war as fellow-members were very friendly. After some minutes' pleasant interchange of civilities and opinions, on extending my hand to take leave, he begged me to remain, as he desired much conversation in relation to the condition of affairs at the South. Soon I proposed, a second time, not to detain him from his duties, and he most kindly expressed a desire to do anything for me he could. Holding my hand, he said, with warmth: "I wish you fellows were back here again." "That is a singular wish," I responded, "after the last four years' experiences." "Yes," he said, "you gave us a great deal of trouble, but the fact is, you wouldn't steal."

No more demoralizing policy of our government has been developed than that which has grown out of Executive patronage. Within the appointing power of the President are over one

hundred and seventy thousand officers, and the power of removal, a supposed incident of appointment, has enlarged Executive influence and created an evil which the efforts of the wisest and best have so far been unable to arrest or eradicate. Civil service reform, incorporated into creeds of parties, and with much gush reaffirmed in letters and speeches of candidates, has proved to be a jugglery of words, a vain delusion and a snare. The spoils system cannot be exaggerated in its baleful influence. It debauches the national conscience, lowers the standard of public morals, destroys the idea that public office is a public trust, and makes it a means of private aggrandizement, an object of prey and booty for the individual office-holder and for a party. Demoralizing, corrupting elements are introduced into political life.

Continuance in office is no longer dependent on fidelity to duty. Men are put in official position, Federal, State, municipal, as a reward for partisan service, or with the full expectation that favors will be done; and these services have not the remotest relation to official duties. Federal

officers are active in nominations, in campaigns, in assessments, in partisan activities, in elections. Workers must be rewarded and the emoluments of office are the corruption fund for the payment. It is an "open secret" that places are apportioned among senators and representatives, who thus usurp the functions of a President. The power and responsibility of a President are surrendered, at dictation or for a purpose, to congressional delegations. Pressure of political influence for patronage sets aside merit and qualification. Time and talent due to public duties are given to spoils.

In the Confederate Constitution an attempt was made to restrict Executive power. Officers of the Cabinet, or those engaged in the diplomatic service, could be removed by the President at his discretion, but in all other cases removal from office could be made only for cause, and that cause was to be reported to the Senate. No person nominated for civil office and rejected by the Senate could be reappointed in the intervals of the session of Congress.

One of the anomalies of the British Govern-

ment is that while it has no written constitution, there has grown up an unwritten or conventional constitution. There may be no trace of this in any page of the written law, but it is universally accepted and is as authoritative as the written law itself. One of the most remarkable facts in English polity is the exemption of the Crown from all personal or political responsibility, and instead thereof there is the responsibility of the ministry. Their recommendations and acts can be discussed in Parliament and a vote of disapproval or censure may result in change of the ministry or the government. As the government is parliamentary, and a large portion of the power is practically transferred to a cabinet or ministry, each one must be a member of Parliament and have the right of initiative, even of chief management, of legislation, and to appear and be heard in defense or otherwise.

Any one familiar with public life in Washington knows that, under some administrations, there has been an injurious lack of sympathizing intercourse between the Executive and Legisla-

tive departments, and especially between members of the Cabinet and committees of Congress, concerned in matters of mutual interest. The absence of facility of communication often proves a bar to the easy and better working of the government. Hence, as far as the wide difference between a presidential and a cabinet government would allow, there was in the Confederate Government an initiation in modified form of an essential feature of the British Constitution, so far as to allow the President to be heard on the floor of the two houses through his constitutional advisers. As a member of a cabinet could not be a member of Congress, the body was authorized "by law to grant to the principal officer in each of the executive departments a seat upon the floor of either house, with the privilege of discussing any matters appertaining to his department." The provision respecting the appropriation of money upon estimates from the Executive, thus making him responsible to the popular representative body for an economical administration, combined with other advantages which the English system enjoys,

caused the adoption of this experiment. The necessary legislation for this judicious reform was never put into execution, but the restricted privilege worked well while it lasted, and the occasional appearance of Cabinet officers on the floor of Congress and participation in debates worked beneficially and showed the importance of enlarging the privilege.

Certain legislative restrictions have been mentioned in connection with the Executive. A plethoric treasury is a source of corruption, of legislative favoritism, of unrepublican paternalism, and with some of our wisest statesmen it has been a cardinal maxim to keep the government poor. Under the vague clause of "the general welfare," the Government of the United States has been guilty of using assumed powers for personal and party and sectional advantage, and the unjust discriminations have aroused bitterest discontent and hostility. Subsidies, bounties, partnerships with corporations, trusts, "vast plutocratic combinations of incorporated wealth," fostering favored branches of industry, purchase of seats in nominating caucuses, labor

troubles, communism, anarchy, are all, more or less, traceable to the collection and disbursement of taxes by the General Government.

As these injustices and discriminations were among the chief causes of Southern discontent, the Constitution forbade Congress to levy and collect taxes, duties, imports and excises, except for discharging the debts and carrying on the government; and from granting from the treasury bounties or extra compensation to employees or contractors; and from promoting or fostering any branch of industry. Closely connected with this was the establishment of courts for the adjudication of claims, the power of Congress over which was strictly limited.

From the frugality and economy of the better days of the republic, the government, by extravagant expenditures, has lapsed into "billion-dollar Congresses," and States, corporations and individuals habitually look to a paternal government for protection and support. It is easy to see how such a system grows and that dependents are ready in return for class legislation to be "bled" to any extent

"bosses" may require. Favored corporations and businesses, as a mere investment, can give prodigally for the success of a party, on the assumption that the partnership with, or favor or "protection" of, the government would bring an early and adequate remuneration for the outlay. However wide may be the differences with administration or party on questions of great moment, they are subordinated to the personal benefit of "protection."

The precautions against governmental wrongs were justified by the history of all governments. Error and falsehood and wrong and corruption die slow deaths when they have fastened themselves upon and draw vitality from governments. We have copious and harmful illustrations of this in the abuses which are inseparable from an alliance of Church and State. Abuses are more tenacious of life and prejudicial to the people when they are intertwined with private interests. Government partnership, direct or by legislative fostering, in business has become apparently an incurable evil in our Federal and municipal governments. The General Govern-

ment is habitually impeded by private cupidity. The welfare of the country and great constitutional and economic principles are habitually and successfully resisted when they stand in the way of the monopoly of a few favored trades. The shrines of Diana must be sold if those who make them belong to the "protected" classes.

When protection of a favored interest is involved in an election, all other issues sink into insignificance. Senator Teller has been already quoted as saying that the tactics of one of the parties in 1896 consisted in levying assessments upon manufacturing institutions. On another occasion he publicly said that the Sherman Silver Purchase Act of 1890 was the result of an agreement with certain silver senators as an inducement to them to support the McKinley tariff.* Tariff reform seems to be one of the impossibilities under our present system of government. Plutocracy and bossism have become too powerful to leave any hope of a scientific and just system of tariff revenue. Selfish ag-

* See my address at Chicago, 4th July, 1898, on Calhoun, pages 26, 27.

grandizement, controlling press and parties, puts contempt on reformers, and through a resistless political organization and the corrupting spoils system pushes far into the future the prospect of an enlightened fiscal policy.

Facilities granted in one place give preferential advantages and consequent disadvantages. The Confederate Congress was therefore denied the right to make appropriations for any internal improvement, even to facilitate commerce, except for the purpose of furnishing lights, beacons, buoys and other aids to navigation upon the coasts and the improvement of harbors and removing of obstructions in river navigation; and the costs and expenses of even these objects must be paid by duties on the navigation facilitated. A State was, however, allowed, under certain conditions, to accomplish the work within her borders by levying a duty on the sea-going tonnage participating in the trade of the river or harbor improved. Any two or more States were authorized to enter into compacts with one another for the improvement of

the navigation of rivers flowing between or through them.

The franking privilege is greatly abused, and during a presidential campaign both parties send free tons of pamphlets under the flimsy and deceptive pretense that they are public documents. The printing and carrying of much trash entails a heavy burden and creates an annual deficit in the department. To correct such and other abuses, the Constitution provided that after the 1st of March, 1863, the expenses of the Post Office Department should be paid out of its own revenues.

Changes were made in reference to amendments of the Constitution; to admission of new States, a two-thirds vote of each State being required, the Senate voting by States; to bankruptcy laws, jurisdiction of suits between citizens of different States being withheld; to citizenship, Federal courts and territories; to correct abuses and give greater clearness. To prevent alien suffrage, voters were required to be citizens, and senators were to be chosen at

the session next immediately preceding the beginning of the term of service.

What was provided for the protection of property in slaves is omitted as of no practical value, as African slavery has fortunately ceased to exist. It is almost the only instance of want of foresight and courage in the authors of the Federal Constitution that slavery was thrust as far as possible out of sight and a euphemistic paraphrase avoided the frank naming of what portended future trouble. The timidity was long afterwards one of the causes, or the occasion, which brought forth bitter fruit in a terrible war. Mention of the slave trade is made because on that subject there has been a persistent misrepresentation of the action of the Confederacy and of Southern sentiment. A modern writer of high character and of much ability affirms that "the reopening of the slave trade was a recognized feature of the scheme of the leaders of the Confederacy." What was in the minds of the leaders, " unavowed and as yet carefully disavowed," I have no means of knowing any more than I have knowledge of the pur-

pose or acts of "the large number of slavers for the Cuban slave trade," fitted out in New York and suffered to depart unmolested.*

Two grossly absurd and wicked attempts were made by desperate and lawless adventurers in 1859 or 1860 to bring some Africans into Southern ports or land them on the coast. These violations of the law had no sympathy from Southern people, and were regarded as at least semi-piratical.

Speaking for the Confederate Congress, I wish to testify in the most explicit manner that no proposition was made in that body to open or connive at the slave trade, nor did a single member favor such an infamous scheme. The convention of Alabama, January 28, 1861, adopted, Mr. Yancey voting for it, this resolution: "That it is the will of the people of Alabama that the deputies to the Southern Convention be, and they are hereby, instructed to insist on the enactment by said convention of such restrictions as will effectually prevent the reopening of the

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* 2 Rhodes' History of the U. S., 369.

African slave trade." The Constitution for the provisional government reads: "The importation of African negroes from any foreign country other than the slave-holding States of the United States is hereby forbidden, and Congress is required to pass such laws as shall effectually prevent the same." Section 9, Article I., of the permanent Constitution reënacts almost *in ipsissimis verbis* the same prohibition. "Negroes of the African race" is used for "African negroes" and "or territories" is inserted after "United States." These articles were adopted without a dissenting voice. The Confederate Government, in organic law, by most positive prohibitions and injunctions, left no room to question its opposition to the slave trade.*

Mr. Stephens said that the Constitution was not only a monument of the wisdom, forecast and statesmanship of those who constructed it, but an everlasting refutation of the charges

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* The best exposition of the Confederate Constitution with which I am familiar is the address of Hon. R. H. Smith, made to his constituents in Mobile, Ala., on 30th March, 1861.

which have been brought against the framers "as conspirators overthrowing the Constitution of the United States and erecting a great slavery oligarchy." Armies sometimes crush liberty, but they cannot conquer ideas. The prejudiced views of the vital principles of the Confederate Government blind many to what is worthy of adoption and prevent all the beneficial interest that might be gained from the knowledge of the theories and views of those who are condemned without examination. In the instrument prejudged there is not a single ambiguous clause, not a novel application of an old principle, not a possible encroachment upon the right of a Northern State.

Every possible infringement upon popular liberty, or upon State rights, every oppressive or sectional use of the taxing power, was carefully guarded against, and civil service reform was made easy and practicable. Stubborn and corrupting controversies about tariffs, post office, improvement of rivers and harbors, subsidies, extra pay, were avoided. The taxing power was placed under salutary restrictions.

Responsibility was more clearly fixed. Money in the treasury was protected against purchasable majorities and wicked combinations. Adequate powers for a frugal and just administration were granted to the General Government. The States maintained their autonomy, and were not reduced to petty corporations, or counties, or dependencies.

The study of the Confederate Constitution would be useful at present, as there never was a time when the need of restrictions and guarantees against irresponsible power was more urgent. The public mind has been schooled against any assertion of State rights or of constitutional limitations, and taught to look with aversion and ridicule upon any serious attempt to set up the ancient landmarks. The abeyance of State authority, reliance in actions and opinions upon Federal protection and aid, the vast accumulation of power and influence at Washington, the supposed necessary supremacy of the Central Government, have caused a wide departure from the theory and principles of the fathers. It is not easy to think of the present

government as being the same simple, frugal, limited, constitutional government of the earlier and better days of the republic. In addition to old and familiar questions we have new ones of fearful import. Expansion, militarism, colonizing, lifting up semi-savages, maintaining a position of influence among the great powers of the world, extension of laws and administration without constitutional grants and inhibitions over territory and people acquired by purchase and conquest and treaty, are of such vast concern and so unprecedented as to require the best minds of the country and the highest wisdom and integrity.* Unless we are safeguarded by the best precedents and the purest statesmanship, we shall drift entirely away from the hopes

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* The unification of Italy received the enthusiastic approbation of all who condemned foreign oppression and favored Cavour's "free Church in a free State," but expansion and ambition to be classed among the Great Powers have saddled her with a burdensome army and navy, and hence oppressive taxation and a heavy debt are most crying evils. Corruption, taxes, bankruptcy, are insuperable grievances, also, in Spain, Portugal and Greece.

and purposes of our ancestors.* With the Constitution as it was construed by Marshall, Taney, Woodbury, Nelson, with a government administered by such men as Washington, Jefferson, Madison, Polk; with such statesmen as Calhoun, Clay, Wright, Wythe, our country could cover North America without sacrifice of personal liberty, without peril to representative institutions, and with unbounded prosperity. It was of "our confederacy" thus administered that Mr. Jefferson wrote to Mr. Madison in 1809: "I am persuaded no constitution was ever before so well calculated as ours for extensive empire and self-government."†

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*Sir G. Cornwall Lewis, whom Bagehot considered the wisest English statesman of this century, in his Essay on Government of Dependencies, uses this language: "We may reckon amongst the disadvantages arising to the dominant country from the possession of dependencies that it tends to generate or extend a system of official patronage in the dominant country, and thus to lower the standard of its political morality."

†Chapter XIII. of my "Southern States of the American Union."

CHAPTER IV.

BORDER STATES—PEACE CONGRESS—LINCOLN'S ADMINISTRATION—JOINING THE CONFEDERACY—CONTRIBUTIONS—REMOVAL TO RICHMOND.

While the border States, by blood, affinity, political agreement, and the ownership of slave property, were in full sympathy with the seceded States, there was a strong Union sentiment among them, a reluctance to adopt extreme remedies, and a disposition to bear the ills they had rather than to fly to the unknown. Traditions, material interests, unwillingness to be buffers betwixt hostile communities, and conservatism restrained them from affiliating with the Southern States or sharing their fate. The commonest prudence made it important for the North to strengthen the Union sentiment and retain these States in the existing partnership. The policy to divide and conquer, produce dissension, create distrust among the States drawn by natural ties into fellowship, was obvious and was adroitly pursued. It was feared that an

attempt to coerce the seceding States into submission to Federal authority would arouse the border States to resistance and identification with the government at Montgomery. This desire to prevent the strengthening of the Confederacy, and some faint notions of the right of a State to secede, induced some prominent persons to express a wish that the wayward sisters might be allowed to depart in peace. It has been asserted that Greeley, Sumner, and Chase were willing to permit "the Southern States to go out with their slavery if they so desired it."

Seward, in official papers and private talk, repudiated the right, and even the wish, to use an armed force in subjugating the Southern States against the will of a majority of the people, and declared that the President "willingly" accepted as true the cardinal dogma that the Federal Government could not reduce them to obedience by conquest. He may have been led to this opinion by the belief that the seceding States would soon "find their position untenable, and so be forced ignominiously back into the Union." His

was a temporizing policy; he was playing a subtle game for delay, and he was misled by an error as to the transient nature, the "passing mania," of the secession feeling at the South. In March, 1861, he told Dr. Russell, of the London *Times*, that if a majority of the people in the seceded States really desired secession he would let them have it, but he could not believe in anything so monstrous. "In reality, those dwelling in the great region, afterwards known as the Confederate States, were of one mind." As early as May, 1861, there was no Union sentiment, or, as Russell wrote to the *Times*, while visiting the Confederacy, "assuredly Mr. Seward cannot know anything of the South or he would not be so confident that all would blow over." "Because of this hallucination, Seward was prepared to precipitate a general war, confident that the United States would emerge from it victorious and more than ever consolidated." The mad scheme, not "consistent with sanity of judgment," as a substitute for the domestic war, was "two or more"

foreign wars, which would "revolt the good men of the South."*

When Congress assembled in Washington in December, 1860, it devoted itself ostensibly to measures of compromise and pacification. To committees of thirteen in the Senate and thirty-three in the House were entrusted proposals of conciliation and adjustment to extricate the country from the danger with which it was menaced. However, it was soon manifest that the Northern members were manoeuvering for delay, in order to paralyze and divide the South and save the border States from acting with their more precipitate sisters. The Crittenden compromise was rejected rather contemptuously, and the Senate resolved that the Constitution, as it was, was ample for the preservation of the Union and needed to be obeyed rather than amended. On January 22d, the two senators and eight of the representatives from Virginia issued an address to the people, stating the hopelessness of any action on the part of Congress,

* Adams' Adams, pages 150, 151, 185, 189, 196.

or of the Northern States, looking to a proper settlement of pending issues, and expressing the solemn conviction that prompt and decided action in convention would afford the surest means of averting an impending civil war and preserving the hope of reconstructing a union already dissolved. A peace conference was invited by Virginia to assemble in Washington in February for the purpose of devising a plan of pacification on terms of honorable adjustment and of preventing the calamity of war or disunion, and a very able deputation was sent. Twenty States—five Southern—responded to the call, and deliberated several weeks. The Crittenden resolutions, with some modifications, were submitted by Virginia as an acceptable basis of adjustment and indignantly rejected. A plan, which was adopted, was submitted to Congress and failed to secure its approval. The Speaker of the House was not allowed even to present certain proposed amendments to the Constitution, and so the peace conference was a failure. The convention in Virginia, so reluctant to take extreme steps, tendered to Senator Crittenden,

by a unanimous vote, the thanks of the people of the State for his able and patriotic efforts "to bring about a just and honorable adjustment of our national difficulties." On February 22d Senator Vance declined to participate in the inauguration ceremonies in honor of Mr. Lincoln, who "comes with threats of war and subjugation against my nation on his lips."

After Mr. Lincoln delivered his inaugural, the Virginia convention, then in session, sent a committee to wait on him and to learn what policy he intended to pursue toward the seceding States. His reply was: "Not having as yet seen occasion to change, it is now my purpose to pursue the course marked out in the inaugural." When the convention was deliberating in secret session on the result of the mission to the President, he issued a proclamation calling forth the militia of the several States to the number of seventy-five thousand for the purpose of coercion. Governor Letcher, in response to the call, replied that Virginia would furnish no troops for such purpose, and added: "You have chosen to inaugurate civil war." On the 17th of April,

the convention adopted an ordinance to repeal the ratification of the Constitution of the United States by the State of Virginia and to resume all the rights and powers granted under said Constitution. This action was forthwith communicated to the President of the Confederate States, and he was requested to send a commissioner to negotiate an alliance, offensive and defensive, with the State of Virginia. Alexander H. Stephens, the Vice-President, was appointed, and after a conference with a committee of the convention, it was agreed that the whole military force and military operations of the Commonwealth in the impending conflict with the Government of the United States should be under the chief direction and control of the President of the Confederate States, upon the same footing as if the Commonwealth had already become a member of the Confederacy. The act of secession was ratified by the people on the fourth Thursday of May, but on the 25th of April the convention had adopted and ratified the Provisional Constitution, and on the 15th of June the permanent Constitution was

agreed to. On the day of the first ratification five gentlemen were elected to represent the State in the Congress then in session in Montgomery. Among the representatives, first and last, sent by Virginia to the Confederate Congress, were ex-President Tyler and Messrs Hunter, Rives, Preston, Baldwin, Russell, Garnett, Montague, Staples, Goode, Bocock—men who would have adorned any deliberative assembly in the world.

On the 28th of May North Carolina withdrew from the Union and Arkansas followed before much time had elapsed. The action of these three States and Tennessee was largely determined by their being called on and required by President Lincoln to furnish troops to aid in a subjugation which they denounced as wicked and unconstitutional. As Richmond was nearer the scene of future military action and as a strategic point of far more importance than Montgomery, the Congress when it adjourned on the 21st of May resolved to meet in Richmond on July 21st. The President was authorized to remove the several executive

departments with their archives. The hostile demonstrations required prompt and energetic action, and the President, with his cabinet, soon proceeded to Richmond, there to remain until the lines were broken at Petersburg. The removal was none too early, for the accumulation of Federal forces on the Potomac showed that the attack would soon be directed against Virginia. The battle of First Manassas occurred the day before the Congress met in Richmond.

Kentucky and Missouri did not formally secede, but the sympathizers with the South were numerous and loyal and enthusiastic. Representatives were admitted from these States into the Congress, and the troops, organized and individual, did valuable service. Bills for the admission of the States were favored in speeches from President Tyler, Toombs, Wigfall and others. I opposed ineffectually, on the ground that the admission would be in utter contravention of all the principles underlying the formation of the Confederacy, and that representatives would have no constituency, as the ma-

jority of the people were not in sympathy with us. These States were soon in complete control of the Federal army, and those who sat in the Congress owed their pretense of an election to the few votes cast by the soldiers in the army from those States. As early as January 7, 1861, Governor Harris called the attention of the Legislature of Tennessee to the perilous condition of existing affairs. A convention was authorized, but an adverse vote prevented its assembling. In May a league was formed with the Confederacy and ratified by the Legislature. On June 8th, by a vote of 104,913 to 47,238, the State voted for secession and on the 24th Governor Harris issued a proclamation dissolving the ties which had bound Tennessee to the Union.

Tennessee was specially unfortunate in her division of sentiment and in the bitterness of feeling which found expression, not merely in words but in acrimonious and bloody deeds. In his message of November, 1861, Governor Harris reported as having turned over to the Confederacy thirty-eight regiments of infantry,

seven battalions of cavalry and sixteen companies of artillery. The State furnished one hundred thousand men to the Confederate army and thirty thousand to the Union army, exclusive of negroes. Early in 1862 Andrew Johnson was commissioned as Military Governor, and up to the close of the war there were two State governments. The occupation of the State by Federal troops brought Tennessee practically into the Union, and early in January, 1865, the State abolished slavery, repudiated the Confederate debt, while the General Assembly, by joint resolution, declared that death should be inflicted on Davis, Mason, Slidell, Hunter, Toombs, Cobb, Benjamin, Lee and Breckenridge.

The Governor of Kentucky issued a proclamation of neutrality and Maryland forbade hostilities within her limits. These proclamations were akin in effect and influence to the declarations of Fernando Wood, D. E. Sickles, and John Cochrane, of New York, that the city would be a free city, taking sides with neither contestant and using good offices for peace and

adjustment. Such declarations, however well meant, were as impotent as a toy boat would be in resisting the cataract of Niagara. Maryland rendered invaluable aid in money contributed to the soldiers and in the ceaseless ministrations of kindness to refugees and prisoners.

CHAPTER V.

REVENUES OF THE CONFEDERACY—TAX IN KIND—CURRENCY—CONSTANT DEPRECIATION—RELIANCE ON COTTON.

It has sometimes been sarcastically or censoriously asked what evidence of statesmanship was furnished by the Confederate States. The reply is obvious. The energies of the Confederacy were absorbed in the effort to preserve its life and protect its territory from hostile aggression. There was little opportunity or occasion for civic ability. The Constitution, when prejudices shall have subsided, will be regarded as a great American contribution to the science of government. The Congress discharged its duty when troops were raised and officered and adequate equipments were furnished. Armories for army and navy, guns and ammunition, transportation, food and clothing, were what pressed most heavily on the government. The blockade of ports (which contributed so largely to the final overthrow of the Confederacy),

increasing occupancy of the territory within the seceded States, absence of factories for making clothing, and such like hindrances made it no easy task to supply the needs of soldiers, especially when military service took away from their homes and business a very large proportion of all males over eighteen years of age. An extended frontier by land and sea, of thousands of miles, gave the enemy, with numerous vessels and an organized, well-equipped army of over a million of men at the close of the first year of the war, frequent opportunities for successful incursions and for contracting our seven hundred thousand square miles.

The financial system became the question of gravest concern. Customs-duties were a slim reliance when incoming vessels had to run a watchful and ever-strengthening blockade. Foreign students of Confederate history are strongly of the opinion that the blockade, in excluding arms and munitions and other necessaries of war from a country without means of supply, was the most fatal of all the causes

which conspired for our defeat. A war tax, very burdensome, was cheerfully paid. Loans and bonds and treasury notes and call certificates were resorted to. Partial relief was found by levying a tax in kind upon farm products, such as corn, wheat, oats, rye, potatoes, peas, beans, sugar, molassses, tobacco, rice, cotton, wool, hides, as well as upon beef, pork and bacon. At the surrender there was on the line of the railways and rivers, between Jackson, Miss., and Montgomery, Ala., enough corn to supply the demand for breadstuffs for a full twelve-month or more. Abundant as was the supply of corn, the people were put to "great straits" to get salt and sugar and coffee and medicines. As indicative of the worthlessness of the currency, I paid $1,250 for two mules and $100 for two pairs of cotton cards. The farmer or planter was allowed to retain fifty bushels of sweet and Irish potatoes, one hundred bushels of corn or fifty bushels of wheat, twenty bushels of peas or beans and a certain amount for raising hogs. Horses and mules were impressed, and slaves

also, for working on fortifications. There lie before me, as I write, personal receipts for such taxes levied on the produce of my farm in Alabama. These receipts are on brown paper and have a dingy, archaic appearance. Nearly all official papers, the school and other books, printed during the war, as well as bonds and currency, were on very inferior paper. A distinguished Alabama lawyer in November, 1863, said that no apology, on account of scarcity of paper, was needed for his use of a leaf torn from a blank book.

All the expedients the critical situation suggested and required could not prevent ruinous depreciation of notes. Efforts were made to retire from circulation some of the issues of Treasury notes by funding them in bonds, but the manifest and implacable purpose of subjugation and the certainty of a long and impoverishing struggle made it impossible for the Government to pay interest in specie, or to redeem at maturity. The premium on coin went up to dizzy heights. All agricultural products and articles of merchandise were inflated

to fabulous prices. Those who held a surfeit of notes could find no objects of investment. Under these irremediable conditions, which only substantial and decisive victories could change for the better, the credit of the Confederacy failed, promises to pay had no valid basis, and the precedents of our Colonies and of revolutionary France found new illustrations in the Confederacy. Her notes became as valueless as continental currency, or as French assignats, or as Kruger "South African Republic" paper money. On the 1st of October, 1864, when the end was rapidly approaching, the public debt was $1,126,381,025.

There was in those days a prevalent opinion, partially well-founded, that Cotton was King. The Southern States had a monopoly of this important staple. The manufacturing districts of England and of the world were dependent on this Southern product. The foreign and Northern press wrote much on the growth and supply of cotton, the capabilities of India and Egypt, and a Liverpool journal declared this the greatest question of the civilized world. Many of the

leading men of the South trusted in the commercial and industrial supremacy of cotton, a power as great as armies and navies, and relied on it as a political factor to "force the hand" of Great Britain and secure the recognition of the Confederate States as an independent power. It did not seem an overstrained judgment to rely on the efficiency of cotton to compel European intervention. Soon the manufacturing districts in England began to feel the pressure of a meagre supply. Looms, which had consumed forty thousand bales in a week, could not hope for more than four thousand. Prices went up to half a crown a pound and remained at a high figure. Disturbances were serious and operatives were thrown on parishes for relief.

The cotton famine of 1861-'63, when from 1,500,000 bales the supply diminished to 11,000, produced most serious distress in Birmingham, Manchester and other manufacturing centers, and the want of employment and consequent loss of wages were most distressing. In spite of these evil consequences, cotton failed, in this most critical period, to demonstrate supremacy.

If it had been susceptible of being used promptly and unitedly, it is difficult to say what might not have been its influence on the conflict. Perhaps no one subject, apart from military campaigns, elicited warmer discussion or wider differences of opinion among congressmen, newspapers, and those who, not in public station, gave serious thought to measures for public safety. The decreasing supply of cotton stimulated efforts at production in other temperate latitudes and at facilitating export by government permission or connivance, by running the blockade, or by hurrying it on railroads to places where it could be transported North. To use this lever in every possible way the Confederate Congress put a discriminating tax on its production, and legalized destruction whenever it was about to fall into the hands of the enemy. The distressing condition of operatives in England and France, the danger of strikes and internal revolution, the suspension of large factories, seemed likely to compel foreign succor to the government, and thus hindered the Confederate authorities from conceding through treaty

negotiation commercial privileges and advantages. A considerable amount of cotton was from time to time accumulated as a basis of credit, or to pay for needed supplies. Governor Vance said that, at the surrender of General Johnston, North Carolina had on hand 11,000 bales of cotton and 100,000 barrels of rosin, most of which fell into the hands of Federal officers. The brutal avidity with which some of these officers, after the surrender, used the means at their command to "loot" farms and enrich themselves by seizure of cotton gave striking illustration of human depravity.

How to deal with cotton and make it most available as an auxiliary to the Southern cause, as stated, did not secure a concurrence of judgment or consistent and effective action. Some urged that all cotton be seized by the government and held as security for bonds or Confederate money; others, more wisely, the export to foreign countries and storing for the same purposes; others, the pledging of all to Great Britain if recognition and material aid would thereby be secured. Others, with much earnest-

ness insisted that there should be absolute free trade with all nations except the United States; or, what was a more favorite project, that there should be an agreement with Great Britain by which she should have a monopoly, or the exclusive benefit, of the Southern trade for a period of twenty years. As some of these propositions involved our foreign relations, they will be treated under that head.

CHAPTER VI.

FOREIGN RELATIONS—COMMISSION TO WASHINGTON—DUPLICITY OF SEWARD—ENVOYS TO EUROPE—COTTON LOAN—EFFORTS IN BEHALF OF BELLIGERENT RIGHTS—RECOGNITION AND INTERVENTION—CONDUCT OF RUSSIA—ENGLAND—FRANCE—C. F. ADAMS—J. P. BENJAMIN.

To conduct our foreign relations, President Davis invited Robert W. Barnwell to take the portfolio of the State Department. It has been said that it takes three generations to make a gentleman. However that may be, Barnwell was a thorough Christian gentleman, of large intelligence, grave, dignified, courteous, of judicial calmness, of marked refinement of manners and purity of life; but he positively declined the promotion, modestly distrusting his ability. Robert Toombs, of Georgia, was then selected, although Mr. Davis preferred that he should take the Treasury Department. He was chairman of the Committee on Finance, and was supposed from legislative experience and success

in the management of his own affairs, to have peculiar fitness for the task of providing ways and means for a new nationality which had not a dollar in the treasury and was even without a system of taxation.

The Provisional Constitution ordained that immediate steps should be taken for the settlement of all matters between the States forming the government and their late confederates of the United States "in relation to the property and the public debt at the time of withdrawal," "these States hereby declaring it to be their wish and earnest desire to adjust everything pertaining to the common property, common liabilities, and common obligations, upon the principles of right, justice, equity and good faith." In obedience to this requirement, the Congress, before the inauguration of the President, passed a resolution expressing its wish that a commission of three persons be appointed by the President-elect and sent to Washington "for the purpose of negotiating friendly relations" between the two governments and for the right and equitable settlement of all ques-

tions of disagreement between them "upon principles of right, justice, equity and good faith." As shown by his inaugural, in which he said, "If a just perception of neutral interests shall permit us peaceably to pursue our separate political career, my most earnest desire will have been fulfilled," the President was in entire accord with the action of Congress, and next to the organization of the executive departments was the consideration of the commission. The President had previously protested "solemnly in the face of mankind that we desire peace at any sacrifice save that of honor and independence; we seek no conquest, no aggrandizement, no concession of any kind from the States with which we were lately confederated; all we ask is to be let alone; that those who never held power over us shall not now attempt our subjugation by arms. This we will, this we must, resist to the last extremity." With wise discretion Martin J. Crawford, of Georgia, John Forsyth, of Alabama, and A. B. Roman, of Louisiana, were chosen, and the Congress, on the 25th of February, the day of their appoint-

ment, confirmed the act of the Executive. "In furtherance of these accordant views of the Congress and the people," said the President in his first message, 29th April, 1861, "I made choice of three discreet, able, and distinguished citizens, who repaired to Washington. Aided by their cordial coöperation and that of the Secretary of State, every effort compatible with self-respect and the dignity of the Confederacy was exhausted before I allowed myself to yield to the conviction that the Government of the United States was determined to attempt the conquest of this people, and that our cherished hopes of peace were unattainable."

These commissioners went at once on their mission, and on the 12th of March officially addressed the Secretary of State (Mr. Seward), informing him of the purpose of their mission, and stating, in the language of their instructions, their wish "to make to the Government of the United States overtures for the opening of negotiations, assuring the Government of the United States that the President, Congress, and people of the Confederate States earnestly

desire a peaceful solution of these great questions; that it is neither their interest nor their wish to make any demand which is not founded on strictest justice, nor do any act to injure their late confederates." To this no formal reply was received until the 8th of April. The annals of diplomacy contain no chapter so full of duplicity, insincerity and deception as that which records the conduct and utterances of William H. Seward, the Secretary of State of the United States, in relation to this attempted adjustment of matters in dispute. He had declined to receive the commissioners in any official capacity, or to see them personally, but through Judge Campbell, of the Supreme Court, he held semi-official intercourse, orally and in writing, the substance and spirit of which have provoked a controversy which does not admit of an honorable solution. The matter rests on the relative integrity and veracity of Judge Campbell and Secretary Seward, and the South rests her case confidently on the accessible correspondence between these two distinguished men. Seward caused the Con-

federate representatives to be notified of the receipt of their communication to him, and begged that they should not press for an immediate reply. Twenty-seven days afterwards a reply without signature or address was "filed" in the State Department, but a copy was not handed to the commissioners until the 8th of April. An oral answer had been made at a much earlier date. The immediate question related to the course to be pursued by the Government at Washington towards Fort Sumter, whether the garrison should be withdrawn or an attempt be made to relieve it. Through the intermediary, Justice Campbell, assurances were received from the Government of the United States "of peaceful intentions, of the determination to evacuate Fort Sumter; and, further, that no measure, changing the existing status prejudicially to the Confederate States, especially at Fort Pickens, was in contemplation, but that in the event of any change of intention on the subject notice would be given to the commissioners." Seward may have been in favor of the quiet withdrawal of the garrison; whether

he was or not, the government at Montgomery was informed from an authentic source that the fort would probably be evacuated in a short time and the danger of a conflict be thus avoided. The evidence is that the Cabinet of Mr. Lincoln, by a vote of five to four, favored the abandonment of Sumter, and the commissioners being so informed, wrote to Mr. Toombs that "if there is any faith in man we may rely on the assurances we have as to the status." On May 8th, 1861, President Davis submitted to Congress a narration of the occurrences which had taken place between Judge Campbell and Secretary Seward, and the documents were published in full at the time and are now readily accessible to any inquirer. Judge Campbell therein stated what he had done in connection with the commissioners who had been appointed to secure a peaceful adjustment of the pending difficulties between the two governments. In the papers were letters from Judge Campbell to President Davis and to Secretary Seward, the latter having been submitted to Mr. Seward, who did not reply or publicly

question the correctness or accuracy of the recital. From the conferences Judge Campbell felt justified in writing to Mr. Seward: "The commissioners who received these communications conclude they have been abused and overreached. The Montgomery government hold the same opinion." "I think no candid man who will read over what I have written, and consider for a moment what is going on at Sumter, but will agree that the equivocating conduct of the administration, as measured and interpreted in connection with these promises, is the proximate cause of the great calamity." He further affirmed the profound conviction of military and naval officers "that there has been systematic duplicity practiced on them through me." President Davis said: "The crooked paths of diplomacy can furnish no example so wanting in courtesy, in candor, in directness, as was the course of the United States Government toward our commissioners in Washington."

There is no doubt that the Cabinet, probably through the influence of the seven "War Governors" who met at the capital, reversed

its position and policy. Adams, in his life of his father, C. F. Adams, says it was lucky for the country that Mr. Lincoln was "more interested in the distribution of offices than in the gravity of the crisis" (pages 126, 127, 146, 185). Seward continued longer his Machiavellian policy of evasion and deceived Justices Campbell and Nelson, who acted as intermediaries between him and the commissioners. Seward had professed that no trouble would grow out of a change of administration and that secession would soon prove a mortifying failure. (Adams, 117, 131, 183.) It may as well be stated here that among the public men of the South no one knew better than Mr. Davis the odds against the Confederacy in consequence of her entire want of preparation for the requirements of war. As an educated and trained soldier, he measured the full force of the struggle, and contended that it was likely to last a number of years instead of a few months, as so many predicted. When it was proposed to enlist an army of two or three hundred thousand men for six months, he op-

posed it for military reasons and because the war was likely to be long and bloody.

When it became a fact that the assurances and pledge as to Sumter were disregarded, the commission returned to make full report of their work. Publications from members of Mr. Lincoln's Cabinet show the dissensions which prevailed, but the frank and explicit statements of Judge Campbell leave no doubt of the double-facedness of Seward. The attack on Fort Sumter made unnecessary all further attempts at a peaceable settlement, and on May 6th war was recognized as having been begun. Mr. Rhett, as chairman of the Committee on Foreign Affairs, submitted an exhaustive report, vindicating the right of the States, a right inherent in all sovereignties, to form a new government and resist coercion.

Mention has been made of the possible and expected benefits from the control or sale of cotton. Through diplomatic and commercial agents proposals for a cotton loan were issued in March, 1863, in London and Paris. William L. Yancey, of Alabama, to whom on the day of the inaugu-

ration the option of a place in the Cabinet or on the commission to Europe had been offered; A. P. Rost, of Louisiana, and A. D. Mann, of Virginia, were early sent abroad, with powers not strictly defined, but with general authority to watch and act for the welfare of the Confederacy. They had some supervision over the cotton loans. The bonds for the cotton loan bore interest at 7 per cent in sterling, payable semi-annually. They were exchangeable for cotton or redeemable at par. The special security was the engagement of the government to deliver cotton to the holders. Each bond, *at the option of the holder,* was convertible at its nominal amount into cotton at the rate of six pence sterling for each pound of cotton, and this could be done at any time not later than six months after the ratification of the treaty of peace between the belligerents.* The bonds were issued at 90 per cent, payable in installments.

The loan stood in London at 5 per cent premium, and this notwithstanding the active

* Davis' Rise and Fall of Confederacy, 496.

and somewhat unscrupulous efforts of agents of the United States Government to cast discredit upon the Government of the Confederate States. The fact that Mr. Davis lived in Mississippi, which had once repudiated certain bonds, was thought to justify the slander that he had favored that action of his State, and would not be restrained by any conscientious scruples from dealing in like manner with creditors of the Confederate States. The foreign debt, the result of this cotton loan, was twenty-two hundred thousand pounds, and was secured by about 250,000 bales of cotton which the government had collected for that purpose. This cotton was seized and appropriated by the United States Government.

In addition to the attempt to place a cotton loan was the effort to secure recognition as an independent power. The primary object of the commissioners was to make preliminary arrangements for the more formal diplomatic intercourse. There was obvious propriety in notifying all foreign governments of the organic changes which had occurred in America and to

give prompt assurance of the desire to continue with all the most amicable relations. It was no easy task to eradicate the error, almost universal in the minds of European publicists, largely prevalent with writers and politicians in the Northern States, that the separate sovereignty and independence of the States were merged by the formation of the Union into one common nation, and had, therefore, ceased to exist.

Access having been obtained to the Secretary for Foreign Affairs in London and to men of equal position in Paris, the Southern position was presented actively and ably, and Great Britain and France recognized the Confederate States as belligerents and entitled to the rights and privileges accorded by the law of nations to belligerency. Yancey wrote a very able paper as a plea for recognition. Separate nationality or independence being deferred until determined by the arbitrament of war, this concession or recognition of belligerency, announced by Earl Russell in the House of Commons on May 6th, was of immense advantage to the struggling Confederacy. Auxiliary to this was the demand

from the foreign powers that the blockade of Southern ports must be effective and not a mere paper blockade. Closing the ports by Executive proclamation thus became a mere *brutum fulmen.*

The treaty of Paris of 1856 was accepted by Great Britain, France, Russia, Prussia, Austria, and Turkey. Four articles of maritime law were adopted by the signatory powers—that privateering be abolished; that the neutral flag covers enemy's goods except contraband of war; that neutral goods, except contraband, are not liable to capture under the enemy's flag; and that a blockade to be binding must be sustained by an adequate force. Maritime powers were invited to accede and had a right to become parties to the agreement. Europe and South America notified of their accession, but the United States declined, not being willing to surrender the right to use privateers.

In April, 1861, the State Department instructed all the ministers to negotiate for the United States to become a party to the Paris compact. Undoubtedly the aim of the

Secretary was to relieve the British Government from all fear of injury from privateers and to remove excuses for foreign interference in American affairs. The ulterior purpose was, after the United States became a party to the declaration, to call on Great Britain and the other powers to help to suppress Confederate privateering. Mr. Adams notified Earl Russell of the wish of his country "to accede to the principles of the treaty of Paris, in their entirety, pure and simple." The covert design of the wily Secretary being suspected, Russell asked for the insertion of a clause providing that the "convention should have no bearing, direct or indirect, on the internal difficulties now prevailing in the United States." To circumvent and cripple the Confederacy being the object of the departure from the long-deferred delay, Mr. Adams declined the addition, and to this day the United States has not become a party to the declaration of 1856.

The Confederate Government accepted four articles of the convention, declining to surrender privateering, and thus, as Blaine said,

became a party to "an international compact." Using her undoubted right of privateering, officers were commissioned, vessels were bought and captured, and under able commanders great damage was done through them to American shipping. "In three years time," said Mr. Blaine, "$15,000,000 of property had been destroyed, and the shipping of the United States was reduced one-half and the commercial flag of the Union fluttered with terror in every wind that blew from the whale fisheries of the Arctic to the Southern Cross."

James M. Mason and John Slidell were commissioned to England and France, respectively, and their capture on the high seas by Commodore Wilkes and forcible abduction from a British vessel gave rise to the Trent affair, which was so well managed, at the expense of the mortification of much national pride and self-glorification by the United States Government, as to prevent any special advantage to the Confederacy as had been expected and hoped for from the illegal seizure. These diplomats, when they reached Europe, gave themselves zealously to

the chief object of their mission—the obtaining of recognition. Mr. Mason saw Palmerston and Russell, but not officially, and for some months the ministry was on the point of uniting with France in a simultaneous recognition of the Confederate States. In September, 1862, Earl Russell wrote to Lord Palmerston: "I agree with you, the time is come for offering mediation to the United States Government with a view to the recognition of the independence of the Confederacy. I agree, further, that in case of failure, we ought ourselves to recognize the Southern States as an independent State." Palmerston declared the plan excellent, and added: "Might it not be well to ask Russia to join England and France in this offer of mediation?" Other and adverse influences finally prevailed and compelled the refusal of any acts favorable to mediation.

In France the situation was different. The Emperor Napoleon saw Slidell as many as three times, while numbers of the imperial household and ministry held with him unrestrained intercourse. Slidell evinced great diplomatic skill,

and Charles Francis Adams says: "He failed, and failed completely, partly because of the skill and conduct of his opponents, partly from the course of events beyond his power and control; but the game was a great one, and it nowhere as yet appears that he played his hand otherwise than skilfully and for all it was worth." The recognition of the Confederacy, the breaking of the blockade, preventing governmental interference with the building of vessels intended for the Confederacy, sale of cotton bonds, were the main points in this "great game." On the 15th of October, 1862, M. Drouyn de Lhuys, the Minister of Foreign Affairs in Paris, proposed to England and Russia a joint offer of mediation in the American struggle, beginning with an armistice of six months. This meeting with a decided refusal, Russia siding all the time with the United States, the principal work of the Confederate envoys failed. Mr. Yancey had taken passage for home on the arrival of Mason and Slidell.

The Hon. L. Q. C. Lamar was appointed in November, 1862, envoy to Russia, and he

spent the spring and summer of 1863 in London and Paris. His great ability, large legal and legislative experience and unusual conversational powers made his companionship much sought after in foreign capitals, and he used his opportunity vigorously for correcting misapprehensions and giving clearer and more philosophic views as to the nature of the Confederacy, the ends proposed, and what had been achieved. He confirms the statements in reference to France. "I know very well that Louis Napoleon was not only in favor of interfering in our behalf, but warmly so. He received me frankly and spoke with utmost kindness on the subject." The state of things in Russia not promising favorable results, the mission was withdrawn. Continued ill health demanding his return, Lamar sailed from Liverpool to Halifax, thence to Bermudas, and succeeded in running the blockade at Wilmington.

The Hon. Charles Francis Adams, son and grandson of presidents, a genial, intelligent gentleman, patriotic, self-willed, courageous, but always polite and courteous, with whom I had

pleasant acquaintance in the XXXVI Congress, was the Minister Plenipotentiary in London during the whole period of the war. He served his country with distinguished ability and success, although he had no bed of roses, and all his patience, tact, equanimity, industry, vigilance, knowledge of international law, were required to protect the interests of his country in that most perplexing and difficult time. Sometimes he was saddened by apparent failures, and grew almost despondent over the unsatisfactory relations with Great Britain and in not being able to make Russell and Palmerston see things through his eyes. His biographer resents the appearance in London of diplomatic emissaries of different types, against whom the Minister was at last compelled to make active remonstrance. Some were men of repute and energy and discretion; others were puffed up with their own importance, and were busy intermeddlers, to their country's hurt, in what they did not understand.

At one time the State Department, with the approval of Mr. Lincoln, invited Messrs.

Winthrop, E. Everett, J. P. Kennedy, Archbishop Hughes and Bishop McIlvaine to visit Washington, with a view to their going abroad in order that they might, in London, Paris and elsewhere, counteract the influence and labors of Southern representatives. The project was temporarily withdrawn, Winthrop, Everett and Kennedy for various reasons being disinclined to the service, but in the following month Hughes and McIlvaine went out. Evarts, Beecher and Weed were also commissioned, but not to interfere with the accredited Plenipotentiary.

During the dark and troublous days preceding and after the election of Mr. Lincoln, Adams and Lamar, as fellow-members in the House of Representatives, were not infrequently seen in close and familiar converse. Lamar spoke to me of the pleasure and profit he derived from the interchange of ideas, and commended Mr. Adams to me as one whose acquaintance should be sought and cultivated. If they had met in London, when the air was full of rumors and when there was the collision of sharpest in-

tellects on every theatre, political, diplomatic, social and commercial, the conversation would have been worthy of record by the most sagacious chronicler.

Near the then hastening collapse of the Confederacy, in the early part of 1865, the President appointed the Hon. Duncan F. Kenner, of Louisiana, as special commissioner to Europe, but mainly to Great Britain. Mr. Kenner had unbroken service in the Congress from the organization of the government at Montgomery, and for the greater part of our history was the chairman of the Committee on Finance. He was a discreet, well-informed and able man, of large business experience and acquaintance, and from his intimacy with Mr. Davis and Mr. Benjamin and his familiarity with all legislation and financial operations, was not surpassed by any public man in knowledge of the needs and resources of the Confederacy. The meagre existing records of the State Department and of diplomatic correspondence furnish no copy of the instructions to this special envoy, but he had large and unusual discretionary powers, which

authorized him to negotiate on the questions of slavery and trade and finances. Long delays, annoying detentions, and the rapidly falling and despairing fortunes of the Confederacy prevented him, upon his arrival in London, from accomplishing any part of the purpose of his mission, or even from making a serious effort thereto. Mr. Kenner's narrative of his journey to and brief stay in New York, his secretion by friends, his disguises, his evasion of spies, his final embarkation, his moving "accidents by flood and field," was of thrilling interest, and I urged him several times after his return to commit to writing his experiences and adventures and the objects of his mission as an honorable episode in his life and as throwing light upon an unknown portion of our history.

During the entire life of the Confederacy, Judah P. Benjamin was one of the constitutional advisers of the President, and in the days of hopes deferred and disappointed, when Confederate agents were so active in trying to secure foreign recognition and intervention, he was at the head of the State Department, with

hands fettered, it is true, but displaying enormous energy and capacity. Benjamin was born of Hebrew parentage in one of the West Indies, and came, at an early age, with his father to New Orleans. He studied law and secured a large and lucrative practice. In the Supreme Court of the United States he could fitly be compared with Wirt, Pinkney, Carter and Choate. His magnificent speech in the Senate, in reply to Seward on the Dred Scott decision, was a masterpiece of polemic discussion and placed him in the foremost rank of the parliamentary orators of our time. Calm and courteous in manner, with a voice as musical as silver bells, with marvelous lucidity of statement and power of analysis, with minutest acquaintance with every detail of facts and principles, with merciless logic exposing sophistry; in precise and guarded language charging misrepresentation, evasion, and perversion, every sentence a rapier thrust bringing blood; holding auditors, friend and foe, in breathless attention, he added a new lustre to the great council chamber, which for fifty years has been the theatre of oratory

and statesmanship. Escaping abroad after the surrender, he began the practice of his profession in London, became Queen's counsel, and a learned Scotch judge (Lord Shand) told me some years ago in Seville that he stood at the head of the English bar. With much perseverance and readiness and physical endurance, after sitting up all night, he was fresh the next morning for argument in court or Senate or for diplomatic labors. With the versatility of a self-originating intellect, a retentive memory, command of immense resources, strongest conviction of the rightfulness of the Confederate cause, he managed matters committed to his hands, when the house was tumbling about his ears, with a cheerful courage and hopefulness that made him a wonder and a stimulating example in times of adversity and peril.

CHAPTER VII.

DAVIS' RE-ELECTION—UNANIMITY OF THE SOUTH—CONTRAST OF RESOURCES—INDIVIDUALITY OF THE STATES AS SEEN IN NORTH CAROLINA, GEORGIA, VIRGINIA.

By the unanimous vote of the Electoral College, Mr. Davis was President for the second time, as by a like vote he had been called to be Chief Executive in the initiative period. The second inauguration under a constitution and government then called "permanent," now sounding as irony or sarcasm, occurred in Richmond on the 22d of February, 1862, the President reading the paper and taking the oath while standing, during a snowstorm, on a platform erected beneath the bronze group surrounding the Washington monument.

After a year's experience, the hopes of the people were undimmed and their loyalty was unshaken. To the lessening number of the survivors of the war few statements are more surprising than the oft-repeated one of wide divisions among the citizens of the South. Much

misapprehension seems to exist, to be industriously fostered, as to Southern sentiment in 1861. It is charged that there was a wanton and precipitate severing of the relations to the Union, and that the masses were hurried along against their better judgment by ambitious and unscrupulous leaders. Dr. Palmer, in his address before the recent Confederate reunion (May 30-June 3, 1900), forcibly says:

"It is simple folly to suppose that such a spontaneous uprising as that of our people in 1860 and 1861 could be effected through the machinations of politicians alone. A movement so sudden and so vast, instantly swallowing up all minor contentions, would only spring from some great faith deeply planted in the human heart, and for which men were willing to die. Whatever may have been the occasion of the war, its *cardo causae*, the hinge upon which it turned, was this old question of State sovereignty as against national supremacy. As there could be no compromise between the two, the only resort was an appeal to the law of force, the *ultima ratio regum.*"

Separation was reluctantly accepted as a dire alternative even by those who were said to be secessionists *per se*. It was only after the conviction became deep-settled that the powers of the Union were to be used aggressively and injuriously against the South, that a determination was slowly reached to let the Union go and to save the Constitution. The conviction was well-nigh unanimous in the seven seceding States, and was as strong among those who advised conference, coöperation, delay, "fighting in the Union," as among those who favored the speedier formation of a new government. All classes shared in the fear that the Union was to be perverted from its original intent. The Constitution was an object of worship. Attachment to it was akin to idolatry, as was demonstrated by its substantial adoption as the organic law of the Confederacy. When sectional feeling at the North, growing out of different interests and ideas, embodied itself in the dominance of a hostile party and the election of a President who was to accomplish by Federal agency what the States who elected him had sought to do by State

action, the seceding States lost confidence in continued security for their property and equality.

The Constitution, the instrument and bond of Union, had been largely in its framing the creation of Southern statesmen, and the Federal Government, the creature of the Constitution, had been shaped and administered, for many years, by Southern men. When a sad choice was forced on the South—a Union without the Constitution, or the Constitution to be administered by those who respected and valued it—with surprising unanimity the choice was made to preserve the Constitution.

An extract given on a former page from a Georgia document presented with force the unity of sentiment on the part of the people. The manly defence of those who did not hold slaves was more than justified by the composition of the army and the ready flocking of all who could bear arms to the Confederate standard. Hundreds of officers and thousands of privates never owned slaves, and their cheerful and intelligent determination to sustain the rights of the States and constitutional principles was

as clear and courageous as that exhibited by more wealthy comrades. In the annual Confederate reunions one sees the same unquestioning devotion to heroes and companions as when men were mowed down by the bloody scythe in the carnage of battle. Those sneered at by Northern pens and tongues, never by Southern men and women, as "poor whites," showed the same indistinguishable courage and endurance and the same unquenchable patriotism as their fellows. With all, equal sorrow over defeats, equal rejoicing over victories, equal devotion to Jackson and Lee.

Mr. Goldwin Smith, in his "Political History of the United States" (pages 256-257), says: "It was complained that the slave-owners, by various subterfuges escaped while they thrust the poor under fire." This is not a direct charge, but an intended implication equally effective, and has been made, less equivocally, by other writers. A gallant Confederate colonel from North Carolina, who was in the army from Manassas to Appomattox, to whom I read the quotation from Professor Smith, said with em-

phasis, "It is a vile slander. I can recall but one slave-owner in my county who was not in the army, and he was in the commissary department." Governor Porter, of Tennessee, in service from the beginning to the end of the war, bears testimony to the presence of the knighthood of the country in the heat of the conflicts. I have gone over the list of "Field Officers, Regiments and Battalions of the Confederate States Army" (ninety-one pages), and while I do not pretend to have known even half of them, yet my acquaintance was very extensive, especially in Alabama, and I have no hesitation in asserting that the accusation is without any just basis. The language is an insult to those charged with being "thrust" into the dangerous foreground, as implying an unwillingness to defend their country, slavish subservience to a comparatively small number of our population and an inability to protect themselves from the wrong and injustice of their neighbors. The proportion of slave-owners to the whole population, including their families in the estimate, was very small. The charge is but a part of the

systematic, incorrigible, unverifiable statements which, for a bad purpose, are repeated in many of the histories written by the conquerors. In the Southern army were no Hessians; no purchased alien troops; no products of "bounty-jumpers," nor of subsidies of States to relieve their citizens from draft; no hirelings with promise of luxurious pensions; but as our ranks were decimated by battle and sickness, the vacancies had to be filled, if filled at all, by increasing the minimum and maximum age of liability to service. "No recruits came to the Confederates; there was no nation or people upon whom we could call for help; ours was the orphan nation of the world, poor, naked and hungry."* In appointments, in promotions, in service rendered, in distinctions won, in loyalty and patriotism, there was no line of demarcation in the Confederate army between classes, between slave-owner and non-slave-owner, between rich and poor. The chiefs in command, Lee, the Johnstons, Jackson, Forrest, Semmes, Buch-

*Address of Gov. Porter, at Paris, Tenn., Oct. 13, 1900.

anan and others, have elicited eulogiums without stint from foreign critics for their skill and genius in campaign and in battle. None the less of praise and merit is due to the rank and file of all classes who secured the undying fame of these officers. It is strange that Northern writers do not see that detraction from the endurance and valor and patriotism and skill of Southern soldiers is a subtraction from the credit due to Northern soldiers for winning after years of sacrifice the final and complete victory over their antagonists.

The valor, the skill and the determination of the Northern army to win will be acknowledged by all fair-minded persons. These qualities shine with conspicuous lustre when presented against the background of the extraordinary qualities of the Confederates. In them the United States had quite another opponent than Spain furnished, or than Germany had when measuring swords with Austria or France. With diminishing numbers, inferior equipments, under every possible disadvantage, the Confederates sustained for four years the unequal con-

flict, compelling their adversaries to resort to every available expedient, even the most extreme which the laws of war, always cruel and heartless, can justify or palliate. In his march through Mississippi, General Sherman burned bridges, destroyed cars and locomotives, and gave to the flames vast quantities of cotton and corn. In his official report of operations in Georgia, he said: "We consumed corn and fodder in the region of country thirty miles on either side of the line from Atlanta to Savannah; also, the sweet potatoes, hogs, sheep and poultry, and carried off more than ten thousand mules and horses. I estimate the damage done to the State of Georgia at $100,000,000, at least $20,000,000 of which inured to our benefit, and the remainder was simply waste and destruction." In South Carolina and North Carolina the Weylerism was more pronounced. Shenandoah Valley was "laid waste and ravaged. Grant ordered Sheridan to spare nothing from destruction that might any longer furnish the means of subsistence to the enemy." The conquest of the Confederacy was so difficult that

by calls, conscription, bounties and other Federal enticements, the army and navy ran up to more than three millions of men against six hundred thousand Confederates. At one time, General Grant had under arms at his command 700,000 soldiers.*

Goldwin Smith says that the bulk of the Northern army "to the end was native, though it included many Germans, British and Irish, who had been naturalized." "The South, almost from the first, resorted to conscription."† It is not easy to deal with such inventions in a calm historic spirit. Conscription at the South was not "almost from the first." The earliest act passed was in April, 1862, and its enforcement was by no means general or attended with harshness. In South Carolina and other parts of the South the law was scarcely felt, as those liable to military service were already at the front. In Tennessee it was not put in execution, and, until the close of the war, the enlistment of

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*3 Library of American History, pp. 149, 151, 163.

†Political History of United States, p. 256.

troops did not require, except in individual instances or particular localities, either stringency or cruelty. What Professor Smith states as to "the bulk" of the army being natives, may be put over against the official and other well-known facts. Early in the struggle, the Federal Government saw that "ninety days" would not suffice for finishing it, and that a single-handed contest would be long and doubtful. Agents, including the commissioners mentioned on page 137, were dispatched to Europe, to plead the cause of the Union and to entice by bounties and other seductions as many men as possible to enlist in the Union army. According to official statistics, furnished by the Federal Secretary of War, more than 720,000 foreigners came over and were enrolled against the South. How many negroes were in the Union army, swelling the unparalleled odds against the South, I have not been able to ascertain,* but careful statisticians calculate that from the entire

*See article of M. V. Moore, in New Orleans *Times-Democrat*, June, 1900.

South more than 500,000, including negroes, were under the flag of the Union. A maximum estimate of the troops in the Confederate army, from beginning to end, would be 700,000. To crush the Confederacy the United States had on her rolls 2,788,304. The strength of the army at the close of the war was 797,007 present, 202,700 absent. The strength of the Confederate army at the surrender, according to Secretary Stanton's estimate, the highest given, was 174,223.

Early in the struggle the North realized that the South could not be defeated in a single-handed contest, and so seductive bounties, with prospect of future pensions, were held out to promote the enlistment of the over-crowded population of Europe. With this preponderant avoirdupois, equipped and supported without a day's failure of subsistence, four years of gigantic struggle, with a thousand battles, unsurpassed by Napoleonic wars, were needed to subjugate the handful of badly armed, poorly clad, poorly fed Southern soldiers. In keeping alive the memory of the achievement of such men

and of the principles which animated them and elicited such superhuman devotion, we are at the same time honoring those who won in the struggle. When Northern writers and politicians decry our men and cause, they depreciate their own people and disparage their courage and gallantry. Alexander of Russia gave audience to a deputation from the French assembly when the allied armies occupied Paris. The Frenchmen said: "Sire, we have been waiting a long time for your Majesty." The Emperor replied happily: "You owe the delay only to French valor."

To carry on a war, offensive or defensive, for a series of years, is far more than fighting battles, winning victories, or sustaining defeats. Quartermaster, subsistence, ordnance, pay and medical departments are necessary to meet the wants of men brought together in large numbers and to make effective the fighting power of an army, "and the talent to satisfy these with order, economy and intelligence forms the science of administration." Troops must be procured, supplied with shelter, food and clothing,

armed, transported, paid, cared for when sick or wounded, and everything possible must be provided for their strength, health, spirit and effectiveness.

To make the best possible use of all the forces in the field, it is necessary to provide an efficient means of transport and a well-arranged system of supply, and these the North had superabundantly, in addition to her active business, open ports, plenty of money, greater population, and an inexhaustible and available European supply of men. Equipment and supplies were rarely hindered by lack of transportation. Probably among the most marked features connected with the supply of the Federal armies, were the use of the ocean, of railroads and navigable rivers, and the facility with which depots could be and were changed so as to be always in touch with the armies in all their various movements. The extent of the base of operations, or the portion of country from which reinforcements and supplies could be obtained, gave the armies great advantage in selecting lines of invasion exempt from interception when

defeated. Jackson in 1862 flanked Pope and cut him off from the upper Potomac, but could not prevent him from reaching Alexandria. In 1863, when Grant was baffled on the Rapidan, he changed his base as he moved around successively to the Pamunkey and the James. The country commanding a sea is limited as to the amount of stores it can transport only by the capacity of the vessels it has at command. The Quartermaster Department had in charge during the war, on ocean and lakes, 399 vessels, having a gross tonnage of 13,706 tons, and there were 238 vessels employed in the lake and ocean service, having a tonnage of 165,248 tons, which were *owned* by the government. There were 119 steamers, 305 barges, and 109 coal drayage boats and floats *belonging to the United States* on the Mississippi River and its tributaries and at Mobile. Besides these, the Quartermaster Department had chartered for the same waters 1,750 steamers and other vessels. The theatre of war was bounded largely by the Atlantic and Gulf coasts, and the supremacy on the water made possible the Peninsular cam-

paign and the capture of desirable points. The supply of armies operating against Richmond was feasible only because of the monopoly of the sea. Wellington is reported to have said in the Spanish campaign that an army moved upon its belly. Food and transportation enter very largely into every military campaign. One depot at Giesboro, D. C., had a capacity of supplying 30,000 animals. During the first nine months of 1864 the supply of horses by the Cavalry Bureau averaged about 500 per diem, and the supply to Sheridan during his Shenandoah campaign was 150 per day. In 1862, 125,000 men, 14,592 animals, 44 batteries of artillery, the wagons and ambulances, pontoon trains, and the enormous equipage required for the Army of the Potomac, were transported in about 900 steamers and sailing craft. During Grant's campaign against Richmond a large fleet was constantly employed in supplying troops at various stations along the coast from Chesapeake to New Orleans. From May 1 to August 12, 1864, the daily average number of rations forwarded from Chattanooga to Sherman's army,

which numbered about 105,000 men, was 412,000, more than three rations for every man that left Chattanooga on that campaign. In 1864 Grant's wagon train would have extended from the Rapidan to Richmond if marched in single file upon one road. (Journal of the Military Service Institution. Jan., 1896, pp. 45-95.)

What a contrast to the Southern army, half clad, half fed, half armed; without any adequate supply of the needed transports, of the needed medical staff, of the needed engineers for bridging, for telegraph work and other engineer duties; with few depots of supply, and a gradually contracting area of territory shut off from the sea by a rigorous blockade. It is a notorious fact that our army at various stages of the war relied largely on the captures from the enemy for clothing, food, wagons, ammunition, guns and other necessary supplies. General Banks was habitually spoken of in the Valley as "General Jackson's Commissary-General." For two or more years the government, as has been detailed on page 110, levied a tax in kind, and corn, wheat, oats, bacon, mules, &c., were sup-

plied by this method. In the last years of the war, a long railway between Meridian and Richmond, over 800 miles with dilapidated equipments, furnished the single line of transportation for army and supplies. For repairs of waste and loss in rails, locomotives, and other needful means, there was hardly the pretence of establishments, and one such line as the Pennsylvania, or the Baltimore and Ohio, has to-day more ample and readier facilities and more abundant resources than the whole Confederacy then possessed.

General Gordon writes to me:

"You are quite right. Every expedient was resorted to. Officers and men were detailed, when necessary, to catch fish when the season permitted. I summoned all the commissaries of my command, from corps commissaries to regimental commissaries, before me and told each that he must send out wagons into the country, into North Carolina, to get in small quantities of supplies to keep the men from starving. We had to take the risk of getting wagons captured, because we could not stand still. You can de-

scribe the wagons of regiment, brigade, division and corps, roaming over the country in the by-ways, &c., hunting for anything that would fill the craving stomachs of the soldiers. But we depended, also, on living off the enemy by capturing supplies."

Despite this immense disparity, we learn from the Library of American History, above quoted from, that after Vicksburg and Gettysburg, "the war must soon end or bankruptcy ensue." "By the beginning of 1862, more than a million of dollars daily was required to meet the outlay." "At the end of the conflict the national debt proper had reached the astounding sum of nearly three thousand millions of dollars, and to this prodigious—almost incalculable—aggregate, the exigencies of war were adding more than two millions daily. Had the war continued another year, national bankruptcy must have ensued."*

Party distinctions were marked before the war, but Whig, American, Democrat, were for-

*3 Library of American History, 147, 151, 175, 177, 178.

gotten in the struggle, and all made common cause. After the election of Mr. Lincoln, Major James Longstreet, then stationed at Albuquerque, New Mexico, wrote to me, expressing the opinion that Alabama would resist, and authorizing me to tender to Governor Moore whatever services he might render. Events moved so rapidly that he sent a second letter with a similar offer to the Confederacy. Mr. Davis was much pleased, and at once gave him a commission in the regular army, which began his illustrious career as a soldier and an officer. From Raphael Semmes, Matthew Maury and John B. Floyd, before or after the establishment of the Confederacy, letters came to me full of valuable suggestions in reference to the duty and possibilities of the South. So, with like prominence, scores and scores of persons of Northern birth and parentage aligned themselves with Southern brethren and displayed the same sacrifices, the same zeal and fidelity, in the holy cause of freedom. When an address to the people was prepared by Congress, it was eagerly signed by every member and ordered to be distributed in

the army. At the head of many brigades it was read, and copies were sought for wider circulation.

Every race has its qualities, and every State in the South has its distinguishing peculiarities and prejudices, which were not surrendered by a partnership with other States. Retaining idiosyncracies was not inconsistent with loyalty to the cause.

A few States may be singled out as illustrative of what characterized all. No organized community in America is more distinguished than North Carolina for conservatism, fidelity to engagements, sterling honesty and courageous devotion to liberty. Her history from colonial period down juts out with elevations from the common level, showing exceptional, early and consistent protests against tyranny and in advocacy of equality and right. Only after deliberation and thorough understanding of the terms of the compact did she ratify the Constitution of the United States, but her assent carried with it the pledge, nobly fulfilled, of allowing no other State to render truer and more

faithful allegiance. So she was not in haste to unite with the Confederate States, as she preferred more conservative and successful resistance; but when her faith was plighted no State surpassed her in sacrifices and labors and courage.

She claims to have furnished 125,000 men actually in the field, and to have lost more in battle than any other State. These troops were transported at her cost to camps of instruction and were well drilled before they were turned over to the Confederacy. During the entire war these troops were by her supplied with clothing, shoes and blankets. The Confederacy, on one or two occasions, drew on the depot at Raleigh for clothing for other troops. Vance, known as the great War Governor, said that quantities of shoes, blankets and clothing were turned over for soldiers from other States. After the battle of Chickamauga he sent to Longstreet's corps 14,000 complete suits, and at General Johnston's surrender he had 92,000 suits of uniforms and stores of blankets, leather, &c.

North Carolina engaged in direct trade with

England, purchasing supplies and transporting them in her own ship. The Quartermaster Department of the Confederacy never owned a transport ship during the war, and it was as late as the fall of 1863 before an order was issued requiring all vessels running the blockade to give up one-third of their cargoes to the purchases or needs of the Confederacy. The State imported clothing, leather, shoes, oil, factory findings, cotton and woollen cards, sheet iron and tin, arms and ammunition, medicine, dyestuffs, blankets, cotton bagging and rope, spirits and coffee, and purchased several thousand bales of cotton, which were deposited in Liverpool. On the day after the battle of First Manassas the Governor received a telegram from the War Department, informing him there was not powder enough in the Confederacy for another day's fight, and asking him to put nitre agents in the field. Several nitre agents were promptly appointed, who continued until the end of the war. The Chief of Ordnance took possession of the Salisbury machine shop and of the Cranberry Iron Works, which were converted into service-

able arsenals. The policy of the State was to encourage the manufacture at home of everything that was needed, as no country, said Mr. Calhoun in 1816, ought to be dependent on another for its means of defence. Before the war ended the commissary of North Carolina was "feeding about half of Lee's army."*

Georgia has been a synonym for self-reliance and independence from earliest days, not hesitating to array herself in opposition to the General Government whenever her territory or the rights of her citizens were infringed by that government. And so during the war, while her contributions of men and money were prodigal and cheerful, she and her public men were never backward in insisting that the Confederate Government was not infallible and must confine itself within the limits of the Constitution and the general welfare.

In the Federal judiciary, in the army and navy, in diplomacy and in Congress, Georgia

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* See Dowd's Vance and the valuable report of Judge Clark, "Organization of Troops," etc.

has not been behind her sisters in the number, ability and patriotism of her sons in these fields of public service, yet it has been a tradition and a principle that the State, in internal administration, should have the very best. An examination of Georgia's history will show a number of able men in law, legislation, medicine, pulpit and banking, not surpassed in any State in the Union. Unfortunately, the popular series of American Statesmen and Commonwealths largely ignore the South, and these men are unknown in other parts of the country.

Joseph Brown, as Governor, was a typical Georgian. He and the State were in fullest sympathy with the Southern cause, but not always in harmony with the administration. The conscript law brought him into controversy with President Davis, and he argued that there was no necessity for such harsh and coercive measures, as they sought to secure more men when the government could not arm those already enlisted. Notwithstanding this divergence of opinion and the opposition to the views of the President, the Governor gave obedience to the law

rather than seemingly embarrass the Confederacy, and Mr. Davis, in a letter to him of May 29, 1862, said the "noble State responded to every call it has been my duty to make on her."

Virginia, in throwing in her fortunes with the Confederacy, gave evidence of deathless devotion to principle and as sublime and heroic exhibition of courage and self-sacrifice as history records of any people. When she acted it was with full knowledge that her proximity to Washington and exposedness would make her the theatre of the war, which the Federal Government purposed and was preparing for. It is well there was hid from her eyes the cruel and revengeful tragedy that was to befall her, when, disregardful of her generous magnanimity in surrendering for the public good a princely territory, the government and the States which had been carved out of her cession—Ohio, Indiana, Illinois, Michigan, Wisconsin, and Minnesota—made a partition of her soil by as despotic and unconstitutional an act as ever disgraced a civilized people. At once the State, with her *sic semper tyrannis* record, became and

remained the leader, and this position of supremacy was accorded without hesitation and without envy by the other States. Hill, Stuart, Jackson, Johnston, Lee and others were accepted as leaders by Divine right, and no one questioned their superiority. Those who served in Virginia are full of grateful memories, and overflow with emotion on their recurrence. On the train it is not an uncommon sight to see an old Confederate shed tears in passing Culpeper, Orange, Winchester, Richmond, as he recalls a house or person where or by whom, when wearied or sick or wounded, he was ministered to by angel hands.

CHAPTER VIII.

WHAT SOUTHERN WOMEN DID—HOSPITALS—PRIVATION IN SOUTHERN HOMES—COMPARATIVE STRENGTH OF THE ARMIES—RELIGION IN CAMPS—MINISTERS IN ARMS—RELIGIOUS PERSECUTION.

After the battle of Manassas and up to Appomattox, Richmond and other cities were freely used as homes for sick and wounded soldiers. In Richmond, and the same was true elsewhere, tobacco factories were turned into hospitals, provided with cots, bedding and other comforts, and doctors and nurses and preachers were in constant and helpful attendance. A list, printed in the *Whig* newspaper in 1862, gives the names and location of thirty-five public and private hospitals in Richmond. Supplies were sent from all the States as well as by individuals and women's organizations. Women, the most refined, the noblest and best cultured in the land, left their homes, took up their residences adjacent to hospitals, and became Florence Nightingales, daughters of the

Red Cross, for all who needed care or comfort. It is resproachfully said by alien writers that the Southern women are more "unreconstructed rebels" than the men. It is certainly true that they did as much as the men in winning the battles, and they are now foremost in building monuments and preserving the record of immortal deeds.

As the years went on leaden footed, the greater was the number of those who returned no more and the severer became the privations of home life, with scantier list of comforts and "shortened tale of hopes." Transportation, mills, factories, were monopolized for government uses, the circulating medium became hourly more worthless in purchasing power; medicines, luxuries, and even necessaries were shut out by the blockade. No house had an idler, hands of the aged and of children were busy in the field, in the garden, in the kitchen, at the spinning wheel and the loom, and all were helping in works of charity and patriotism. For coffee a substitute was found in toasted corn and wheat and potatoes; for tea, in sassafras; sor-

ghum supplied sugar and molasses, and earthen floors of smokehouses, saturated by the dripping of bacon, were dug up and boiled for necessary salt.

We hear and read much of delicately pampered "females" in ancient Rome and modern Paris and Newport, but in the time of which I speak in this Southland óf ours womanhood was richly and heavily endowed with duties and occupations and highest social functions, as wife and mother and neighbor, and these responsibilities and duties underlay our society in its structure and permanence as solid foundations. Instead of superficial adornments and supine action, the intellectual sympathies and interests of these women were large, and they undertook, with wise and just guidance, the management of households and farms and servants, leaving the men free for war and civil government. These noble and resolute women were the mothers of the Gracchi, of the men who built up the greatness of the Union and accomplished the unexampled achievements of the Confedèracy. Knowing no position more exalted and

paramount than that of wife and mother, with the responsibilities which attach to miniature empire, the training of children and guidance of slaves, each one was as Caesar would have had his companion, above reproach and above suspicion, and whose purity was so prized that a violation of personal dignity was resented and punished, by all worthy to be sons and husbands and fathers of such women, with the death of the violator. "Strength and dignity were her clothing; she opened her mouth with wisdom, and the law of kindness was on her tongue. She looked well to the ways of her household, and she ate not the bread of idleness. Her children rose up and called her blessed; her husband also."

Our "peculiar institution" of domestic African slavery in *ante bellum* days created and nurtured a class of women never surpassed in the world. A plantation was a little kingdom, presided over by husband and wife, betwixt whom there existed mutual respect, deference, admiration and love. In the household gathered respectful, obedient, loving children. Near and

around were dependents, who did not claim social equality, but rendered cheerful obedience and service and were cared for tenderly from cradle to coffin. Those who dominated were intelligent, masterful, patriotic, loving home, kindred, State and country, dispensing a prodigal hospitality, limited only by the respectability and behavior of guests. Among girls, refinement, culture, modesty, purity and a becoming behavior were the characteristic traits; among boys, courtesy, courage, chivalry, respect to age, devotion to the weaker sex, scorning meanness, regarding dishonor and cowardice as ineffaceable stains. Their education was respect for women, riding, hunting, speaking the truth. Poetry and romance have yet to portray, in truthful colors, the attractions and beauties of the Southern home, now of the irrevocable past. When inequality was threatened and States were to be degraded to counties, and the South became one great battle-field, and every citizen was aiding in the terrible conflict, the mothers, wives, sisters, daughters, with extraordinary unanimity and fervor, rallied to the support of

their imperiled land. While the older women from intelligent conviction were ready to sustain the South, political events and the necessity of confronting privations, trials, and sorrows developed girlhood into the maturity and self-reliance of womanhood. Anxious women with willing hands and loving hearts rushed eagerly to every place which sickness or destitution or the ravages of war invaded, enduring sacrifices, displaying unsurpassed fortitude and heroism. Churches were converted into hospitals or places for making, collecting, and shipping clothing and needed supplies. Innumerable private homes, near or adjacent to battle-fields, were filled with the sick and the wounded. It was not uncommon to see grandmother and youthful maiden engaged in making socks, hats and other needed articles. Untrained, these women entered the fields of labor with the spirit of Christ, rose into queenly dignity and enrolled themselves among the immortals. Energies, time, lives were given to the alleviation of the suffering, cheering of the homesick, and to the inspiration of the hopeless and the despairing. With

active courage, resolute endurance, cheerful self-restraint and exulting self-sacrifice, they imparted fresh courage to the brave, quickened response of the laggard and poured shame and contempt on him who shirked or sought the bomb-proof. Day and night these ministering angels seemed as if they had made an exodus from Heaven. Boundless patriotism, courageous endurance, surprising elation of thought and action were exhibited. Feminine tenderness was broadened and deepened by this self-sacrificing ministry. Superadded to these trials and duties were the necessary supervision of servants and farms and the performance of duties which hitherto had devolved upon the men. Hanging over homes and hearts were ceaseless apprehensions and the weary absence of the loved ones.

One of the most interesting books, written on a high plane of Christian sympathy and principle, is "Christ in the Camp," whose author is well known as "the fighting chaplain." Full of intelligent zeal and saintly curiosity, besides what he saw and shared in, Dr. Jones has gath-

ered thrilling incident and holy example from camp and hospital, principally from the armies east of the Mississippi. It is not claiming too much to say that the Southern people were an unusually religious people, free from heresies and isms and trusting implicitly in an inspired Bible and in the religion of Christ. This involved a reliance on Providence, more marked in that day than in this. The early movements at the South were invariably associated with religious ceremonies, and autograph letters from Jackson show that he opposed Sunday mails and urged the appointment of chaplains for the army. With the first regiments went out regimental chaplains, Protestant and Catholic, who were generally neighbors and friends and well known to "the boys." In camp, on the march, these spiritual advisers were not strangers nor alien in thought and feeling, but in fullest sympathy with the soldiers, having known many from childhood and being intimate with their parents. When battles occurred they were near the firing line, ready with canteen and needed

supplies to minister to the wounded or to assist to the hospital in the rear.

Not infrequently the warrior spirit was awakened and chaplains forgot themselves and seized a musket to repel, or make successful, a charge. Churches gave up their pastors and theological seminaries suspended their work that students might go to the front. One famous Richmond preacher found pulpit on a caisson or in the end of a wagon, and was not regarded as heterodox when, on the invitation of a clerical brother, he took his place within the chancel, minus a clerical gown and even in his shirt sleeves. It was a camp rumor, too much in keeping with their piety to be denied, that Generals Jackson and Gordon held torches so that the preacher might read the Scriptures.

When in winter quarters the soldiers would construct wooden tents, in which worship was conducted sometimes for weeks, and the best preachers of the States were glad to officiate. Revivals were frequent, and the different denominations had their membership much enlarged by faithful converts. Dr. Jones esti-

mates conversions at 15,000 in Lee's army; Dr. Bennett puts the number in all the Confederate armies at 50,000. The names of the preachers and colporteurs not holding official appointments are legion, but I recall Bishops Early, Quintard, McFerrin, Marvin, Pierce, and Doggett; Palmer, the Hoges, Jeter, Burrows, the Rylands, Cobb, Broadus, Minnigerode, Edwards, Duncan, Renfroe, Father Ryan, Tichenor, Haygood, Dickinson, Slaughter, the Taylors, Pritchard, and scores more.

The pulpit furnished some of the best officers. The most conspicuous was Bishop Polk, who became a lieutenant-general, and not far from whom I was standing when he was killed. Several generals were on the brow of a hill making observations when they attracted the fire of the enemy. All withdrew a few paces except the Bishop, and he, lingering, received a fatal wound, which threw the army in North Georgia into deepest sorrow. From the ministry came also such officers as Lowry, Evans, Pendleton, Capers, Mell, Talbird, Smith, Shoup, Dabney, Harrison, Willis, Peterkin, Chapman, Kelly,

Hiden, and others. Hundreds of preachers were in the ranks.

In several of the States were interferences both by military and civil authorities with churches and worship. In Alexandria, Va., one preacher was made to ride on a "cow-catcher" so as to keep Mosby's men from firing on the Union soldiers, and he was forbidden to preach or to celebrate marriages. Professor Shaler says that ministers of the Gospel were required to swear allegiance before they could legally perform the marriage rite. "In fact, it came about that even loyal people could hardly get through the activities of a day without at least once or twice swearing allegiance to the State and Federal Government." "In his ordinary contacts with the people, an officer was constantly engaged in swearing men and women as to what they had done in the past or would do in the future."*

This degradation of religion was illustrated in Alabama, when General Woods issued an order

* Shaler's Kentucky, page 322.

by which Bishop Wilmer and all his clergy were suspended from their functions and forbidden to preach or perform divine service. In Missouri the tyranny was carried to such an extreme as to close all churches, Protestant and Catholic, whose ministers or members were not in active sympathy with the Union.

Much which it has been thought proper to include in this book time has made obsolete, and the only value is that of vindication from sinister motives and from perversions of history and law. It is freely conceded that secession and slavery have been settled unalterably against the contention of the South. The issues of 1861 can never be revived. African slavery, with universal consent and approval, has ceased as a fact, as an institution, in the United States. The freedom and citizenship of the negro, weighted by universal manhood suffrage, have, because of the unwise embarrassment, generated problems difficult and perilous, the right and safe solution of which lies in the remote future. Un-

fortunately, the presence of the negro, almost exclusively in the South, and the illusions so industriously inculcated as to the consequences of emancipation, have prevented the Southern States from doing what they wished and it was their duty to do, in respect to the restored Union and for the amelioration of the negro. Despite these obstacles, the negro has been the beneficiary of the most prodigal and self-sacrificing liberality in the establishment and support of free schools, to which white and black have equal access, and the Union has received evidence of loyalty and affection, unsurpassed by the sacrifices and gifts of any other part of the country.

If the South be freed from unjust aspersions, with patriotism and courage acknowledged, civic as well as military virtues freely accorded, actions based upon long-asserted State rights and the guarantees of the Constitution justly recognized, there will be in the future, with its questions demanding united energies, a whole country, with no alienations, no unappeased hates, no wrangling over "dead past," no pulling in

opposite directions. North and South, East and West, joined in purpose and hope and effort, for honor and freedom and glory, will not be separated, in sentiment or party, upon questions deep buried in the irrevocable past. They will be controlled by a common desire to make America prosperous, contented, happy and free, a constitutional, representative, Federal republic, the example to all nations struggling for good government, the beneficent illustration of "Liberty Enlightening the World."

Legal Justification of the South in Secession.

LEGAL JUSTIFICATION OF THE SOUTH IN SECESSION.

The Southern States have shared the fate of all conquered peoples. The conquerors write their history. Power in the ascendant not only makes laws, but controls public opinion. This precedent should make the late Confederates the more anxious to keep before the public the facts of their history, that impartial writers may weigh and properly estimate them in making up the verdict of an unbiased posterity. Besides, as they have been the objects of persistent misrepresentation, and authentic records have been perverted to their prejudice, their descendants are liable to receive and hold opinions hostile and derogatory to their fathers.

In this series of volumes, pertaining to the history of the Confederate States, all concerned wish to disclaim in advance any wish or purpose to reverse the arbitrament of war, to repeal the late amendments to the Constitution, to revive African slavery, or secession as a State right or remedy; or

to organize any party or cultivate an opinion which, directly or indirectly, shall inculcate disloyalty to the Union, or affect the allegiance of citizens to the Federal Government. Let it be stated, once for all, that this argument as to the right of the South to be protected in property in slaves and the exclusive right of a State to be the final judge of the powers of the General Government, and to apply suitable remedies, is based on the Constitution and the rights of the States as they existed in 1860.* The amendments made since that year in Federal and State constitutions put an entirely new and different phase on the subjects discussed, for these changes have expurgated slavery and secession from our institutions. Our sole object is to present the Southern side of the controversy as it existed in 1860, and to vindicate it from accusations and aspersions which are based on ignorance and injustice. As the South is habitually condemned and held criminal for seeking to perpetuate a great wrong, it is well to inquire and investigate who was responsible for the state of things which precipitated and prolonged the crisis of 1860-1865. If the act of secession cannot be justified, the Southern people will be stig-

* See resolutions of Pennsylvania Legislature in 1811.

matized as a brave and rash people deluded by bad men, who attempted in an illegal and wicked manner to overthrow the Union. Painfully are we conscious of the disadvantages in any effort to vindicate the motives and principles and conduct of the Southern States and secure a rehearing and readjudication of a suit which seems to have been settled adversely by the tribunal of public opinion. We have a right to ask of our fellow-citizens and of the world a patient and fair hearing while we present anew the grounds of our action. We challenge the closest scrutiny of facts and arguments, and if they cannot be disproved and refuted, justice and honesty demand a modification or reversal of the adverse judgment. Few writers seem to comprehend the underlying idea of secession or the reasons for the establishment of the Southern Confederacy. Swayed by passion or political and sectional animosity, they ignore the primary facts in our origin as a government, the true principles of the Constitution, the flagrant nullifications of the Northern States; and, when they philosophize, conclusions are drawn from false premises, and hence injustice is done. Too often, in the endeavor to narrate the deeds of and since the war, prejudiced and vicious statements as to

character and motives have been accepted and acted on as verifiable or undeniable facts.

In deciding upon the rightness or wrongness of secession, in passing judgment upon the Confederate States, it is essential to proper conclusions that the condition of affairs in 1860 be understood and that clear and accurate notions be had of the nature and character of the Federal Government and of the rights of the States under the constitutional compact. And here at the threshold one is confronted by dogmas which are substituted for principles, by preconceived opinions which are claimed to be historical verities, and by sentimentality which closes the avenues to the mind against logic and demonstration. To a student of our political and constitutional history it is strange how stubborn historical facts are quietly set aside and inferences and assumptions are used as postulates for huge governmental theories. These errors are studiously perpetuated, for in prescribed courses of reading in civics and history are books full of grossest misstatements, teaching sectional opinions and latitudinous theories, while works which present opposite and sounder views are rigorously excluded. *State rights* is perhaps the best term, although not precise or definite in its signification, for suggesting the view of the Constitution and of

Federal powers, as held by the Southern States. During the administration of General Washington those who were in favor of protecting the reserved rights of the States against threatened or possible encroachment of the delegated powers assumed the name of the Republican party, but were often called the State Rights party.* There is no ultimate nor authoritative appeal for determining the political differences between the North and South except the Constitution, but some preliminary inquiries, answers to which will be suggestive and argumentative, may aid in understanding and interpreting that instrument.

Our Constitution is not a mere temporary expedient. It exists in full force until changed by an explicit and authentic act, as prescribed by the instrument, and in its essential features is for all time, for it contains the fundamental principles of all good government, of all free representative institutions. Among these requisites, unalterable by changing conditions of society, are individual

* "In the great historic debate in the Senate in 1830, Robert Y. Hayne, of South Carolina, said that they assumed the name of Democratic Republicans in 1812. True to their political faith they have always been in favor of limitations of power; they have insisted that all powers not delegated to the Federal Government are reserved, and have been constantly strug-

liberty, freedom of labor, of human development, rights of conscience, equality of the States, distribution of political powers into independent executive, legislative, and judicial departments, and a careful restriction of those powers to public uses only, the healthy action of concurrent majorities, a careful safeguarding that the power which makes the laws and the power which applies them shall not be in the same hands, and local self-government. The people are ultimately the source of all political power, and the powers delegated are in trust, alterable or terminable only in a legitimate and prescribed manner. Changes cannot be made to conform to a supposed moral sense, or to new environments, either by the "fierce democracy" or by the action of a department or by a combination of all departments.

To obtain a correct comprehension of the dignity and power of the States it is well to consider

gling to preserve the rights of the States and to prevent them from being drawn into the vortex and swallowed up by one great consolidated government. As confirmatory of the statement that the South has been misrepresented and vilified through ignorance, it may be said that, while schoolboys are familiar with Webster's eloquent periods, few writers and politicians have read the more logical and unanswerable argument of Hayne."

them as they emerged from their colonial condition, having waged a tedious and successful war against the mother country, having achieved separate independence and established a new form of government, a federal union of concurrent majorities, under a written constitution. The American colonies have not had sufficient importance ascribed to them for their agency in achieving civil and religious liberty; and, with their rights and powers as separate governments, as the potential forerunners of our constitutional, representative, Federal republic. The institutions founded in this western world, in the essential elements of law and freedom, were far in advance of contemporary transatlantic institutions. The relations they sustained to one another and to the controlling English Government, their large measure of local administration, must be clearly comprehended to do them justice for what they wrought out, and to understand what character and power they preserved as States in the government of their creation under the Federal Constitution. Their precise political condition prior to the Revolution cannot be obscured. The colonies were separate in the regulation of domestic concerns, in home affairs, but sustained a common relation to the British empire. The colonists were

fellow-subjects, owed allegiance to the same crown, had all the rights, privileges, and liabilities of every other British subject.* The inhabitants of one colony owed no obedience to the laws, were not under the jurisdiction, of any other colony; were under no civil obligation to bear arms or pay taxes, or in any wise to contribute to the support or defense of another, and were wholly distinct and separate from all others in political functions, in political rights, and in political duties. In so far as all the colonists were one people and had common rights, it was the result of their mutual relation to the same sovereign, of common dependence on the same head, and not any result of a relation between themselves. There was neither alliance nor confederacy between the colonies.

When hostilities between Great Britain and the colonies became imminent, because of adverse imperial legislation and the unlimited claim of the right of taxation, and united effort was obvious and imperative to relieve themselves from the burdens and injustice of the laws and the claims of a distant government, the colonies, each acting for

* Some of these principles are ably discussed by the Hon. Thomas F. Bayard in an address, 7th of November, 1895, before the Edinburgh Philosophical Institution. It was this same paper that excited the partisan ire of the House of Representatives in 1896.

itself and not conjointly with any other, sent deputies to a general congress, and when the body assembled each colony had a single vote, and on all questions of general concern they asserted and retained their equality. The Congresses of 1774, 1775 and 1776 were occasional and not permanent bodies, claimed no sovereign authority, had no true governmental powers, and seldom assumed to go beyond deliberation, advice and recommendation. When under stress of war and the danger or impossibility of delay they acted as a *de facto* government, their acts were valid, had the force and effect of law only by subsequent confirmation or tacit acquiescence. The common oppressions and dangers were strong incentives to concert of action and to assent and submission to what was done for resistance to a common enemy. There never was any pretense of authority to act on individuals, and in all acts reference was had to the colonies, and never to the people, individually or as a nation.

Virginia made a declaration on the 12th of June, 1776, renouncing her colonial dependence on Great Britain and separating herself forever from that kingdom. On the 29th of June, in the same year, she performed the highest function of independent sovereignty by adopting and ordain-

ing a constitution, prescribing an oath of fealty and allegiance for all who might hold office under her authority, and that remained as the organic law of the Old Dominion until 1829.

The Declaration of Independence, proclaimed on the 4th of July, was an act of Congress declaring absolution of the colonies from allegiance to the Crown and Government of Great Britain, and that they were "free and independent States." The Congress which made this declaration was appointed by the colonies in their separate and distinct capacity. They voted on its adoption in their separate character, each giving one vote by all its own representatives, who acted in strict obedience to specific instructions from their respective colonies, and the members signed the Declaration in that way. The members had authority to act in the name of their own colony, and not of any other, and were representatives only of the colony which appointed them. Judge Story, in his "Commentaries on the Constitution," reasons upon this instrument as having the effect of making the colonies "one people," merging their existence as separate communities into one nation.

The Declaration of Independence is sometimes quoted as an authoritative political document, de-

fining political rights and duties, as on a parity with the Constitution, and as binding parties and people and courts and States by its utterances. The platform of the Republican party in 1856 and 1860 affirms the principles of this Declaration to be essential to the preservation of our republican institutions, the Constitution and the rights of the States, when, in truth and in fact, its main and almost its sole object was to declare and justify the separation from, and the independence of, the British crown. In no sense was the paper or the act intended as a bill of rights, or to enunciate the fundamental principles of a republic, or to define the status of the colonies, except in their relation to the mother country. No true American will underrate the significance or the importance of the act of separation from a foreign empire, or hold otherwise than with the highest respect the reasons which our fathers gave in vindication of their momentous and courageous action. Refusing to be subject to the authority of the Crown and the Parliament was a heroic undertaking, dictated by the loftiest patriotism and a genuine love of liberty. Putting into the minds and hearts of our ancestors more far-reaching and prescient purposes than they possessed will not magnify their virtues nor enhance their merit.

They met the issues presented with the sagacity of statesmen, and were not guilty of the folly of the propagandism of the French revolutionists a few years later.

The colonies being distinct and separate communities, with sovereignty vested in the British crown, when the tie which bound them to that sovereignty was severed, upon each colony respectively was devolved that sovereignty and each emerged from provincial dependence into an independent and sovereign State. A conclusive proof of the relation of the colonies to one another and to the revolutionary government is to be found in the recommendation in 1776 for the passing of laws for the punishment of treason, and it was declared that the crime should be considered as committed against the colonies individually and not against them all as united together. The joint expression of separate wills in reference to continued union with England expressed no opinion and suggested no action on the subject of a common government or of forming a closer union. It completed the severance of the rapidly disuniting ties which bound to the government across the seas. Some of the colonies, prior to the 4th of July, had declared their independence and established State constitutions, and now all, by a

more public and stronger and more effective affirmation, united in doing what had by some been separately resolved upon. Ceasing to be dependent communities involved no change in relations with one another beyond what was necessarily incident to separation from the parent country. The supremacy which had previously existed in Great Britain, separately over each colony and not jointly over all, having ceased, each became a free and independent State, taking to herself what applied to and over herself. The Declaration of Independence is not a form of government, not an enumeration of popular rights, not a compact between States, but was recognized in its fullest demands, when, in 1783, Great Britain acknowledged New Hampshire, Massachusetts, New York, South Carolina, Georgia and the other colonies to be "free, sovereign, and independent States."

Stress is laid on the revolutionary government and on the Declaration of Independence by those who are anxious to establish the theory of a national or consolidated government, reducing the States to mere dependencies upon central power. As has been shown, the contention, derived from those sources, is without legal or historical foundation; but the temporary government, largely for war purposes, was superseded by the Articles

of Confederation, which, because of the reluctance of the States to delegate their powers, did not become obligatory until 1781, as their ratification by all the States was a condition precedent to their having any binding force. These articles, in explicit terms, incapable of misinterpretation, declare that "each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this confederation expressly delegated to the United States in Congress assembled." There can be no mistake here as to the reservation of entire freedom, entire independence, entire sovereignty. These were retained without qualification or limitation, and the use of the word "retains" is the clearest assertion that these unsurrendered prerogatives were possessed under the previous government.

This historical review was not necessary except argumentatively as throwing light on the real facts, and as raising the strong presumption, to be rebutted only by irrefragable proof, that a State once sovereign has not voluntarily surrendered that ultimate supreme power of self-government or self-existence. While in a colonial condition the people of the several States were in no proper political sense a nation or "one people"; by the declaration and the treaty of peace each

State became a complete sovereignty within its own limits; the revolutionary government was a government of the States as such through Congress as the common agent, and by the Articles of Confederation each State expressly reserved its entire sovereignty and independence. In all this succession of history there was no trend to consolidation, and the most conspicuous feature was the jealous retention by the States of their separate sovereignty.

Equality and Sovereignty of the States.

In forming the Constitution of the United States, from whose ratification our "more perfect union" resulted, did the States surrender their equality and sovereignty, and transfer to a central government the powers and rights which in all previous history had been so carefully maintained? This is the crucial question determining the right of the Southern States in 1860 and 1861 to secede from the Union and to establish for their own defense and welfare a new Federal Union. Obviously this question should be approached and considered and decided, not by prejudice or passion or sectionalism or interest or expediency or wishes of men, but by the Constitution, in its proper meaning as to rights and powers delegated

and rights and powers reserved. Whether secession was wise or unwise, expedient or inexpedient, approved or disapproved by a majority of the States, or of the inhabitants, has no relevancy, nothing whatever to do with this discussion. The naked matter is one of right. Was there a supremacy in Congress or in any other department of the government of the Union, or did the States assert and retain their sovereignty as against the world?

The States were not created by the government of the Union, but antedated and created that organism. Our systems of government are singularly complex, and hence unintelligible to many foreigners. There are two divisions of power—that between the people and their governments and that between the State governments and the Government of the Union. The system is compounded of the separate governments of the several States, and the one common government of all the members of the Union, called the Government of the United States. Each was formed by written constitutions; those of the several States by the people of each acting separately and in their sovereign character, and that of the United States by the same, acting in the same character, but jointly and in concert instead of separately.

Both governments derive their power from the same source, and were ordained and established by the same authority. These governments are coördinate, and there is a subordination of both to the people of the respective States. Limited rights are delegated by the people to their governments, or trustees, and all the residue of the attributes of sovereignty are retained. The division of the powers into such as are delegated specifically to the common and joint government of all the States, to be exercised for the benefit and safety of each and all, and the reservation of all to the States respectively, to be exercised through the separate governments, are what makes ours a system of governments. Taking all the parts together, the people of forty-five independent and sovereign States, confederated by a solemn constitutional compact into one great Federal community, with a system of government, in all of which powers are separated into the great primary divisions of the constitution-making and the law-making powers; those of the latter class being divided between the common and joint government of all the States, and the separate and local governments of each State, respectively; and finally, the powers of both distributed among three separate and independent departments—legislative,

executive, and judicial—present, in the whole, a political system as remarkable for its grandeur as it is for its novelty and refinement of organization.*

Under the English form of government this division with limitations is unknown, and Parliament is supreme. Madison, in the Federalist, says: "The Federal and State governments are, in fact, but different agents and trustees of the people, instituted with different powers and designed for different purposes." Hamilton says: "In the compound republics of America, the power surrendered by the people is first divided between two distinct governments, and the portion allotted to each sub-divided among distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will control each other at the same time that each will be controlled by itself."

The Union is not the primary social or political relation of those who formed it. The State governments were already organized and were adequate to all the purposes of their municipal concerns. The Federal Government was established only for such purposes as the State governments

*1 Calhoun's Works, 112, 113, 199.

and the confederation could not sufficiently answer—namely, the common purpose of all the States. The people of the States, not as a unit, not in the aggregate, but separately, hold in themselves all governmental power. One portion they granted to the State governments; another to the government of the Union, and the residue they retained undelegated in themselves. The grants were in trust for their benefit, and created the division of political power between the Federal and the State governments, which division constitutes the gist and sum total of the controversy between the government at Washington and the seceding States. During and soon after a war waged for eight years to resist a claim to legislate for them locally and internally, inferred from parliamentary supremacy, the colonies or States constructed two unions and established in both a division of power bearing a strong similitude to that upon which they were willing to have continued their union with England—namely, yielding to her the regulation of war, peace, and commerce, and retaining for themselves local and internal legislation. The first union "retains" to the States the sovereignty and rights not delegated to the United States; the second "reserves" to the States the powers not delegated to the

United States. The first confers upon Congress almost all the powers of importance bestowed by the second, except that of regulating commerce; the second only extends the means for executing the same powers by bestowing on Congress a limited power of taxation; but these means were by neither intended to supersede nor defeat those ends retained or reserved by both. By the first, unlimited requisitions to meet "the charges of war and all other expenses for the common defense and general welfare" were to be made by Congress upon the States. By the second, Congress is empowered to lay taxes, under certain restrictions, to "provide for the common defense and general welfare." A sovereign or absolute right to dispose of these requisitions or taxes without any restriction is not given to Congress by either. The general terms used in both are almost literally the same, and, therefore, they must have been used in both under the same impression of their import and effect.*

An *obiter dictum* of Justice Miller, of the Supreme Court, gives point to the value of restrictions and of enforcing them. "To lay with one hand the power of the government on the pro-

*Taylor's Construction Construed, p. 55.

perty of the citizen, and with the other to bestow it upon favored individuals to aid private enterprises and build up private fortunes, is none the less a robbery because it is done under the favor of the law."

The Constitution Made by States.

As everything in this discussion depends on the Constitution it seems prudent to state with some particularity its origin, its establishment, and its terms. The confederation was found to be inadequate to the ends of an effective government. The States adopted conflicting and even hostile commercial regulations, and trade suffered from these embarrassments. The Legislature of Virginia, impressed with the necessity of a government of larger powers, appointed in 1786 commissioners to meet commissioners from other States at Annapolis to prepare for adoption by the States a uniform plan of commercial regulations. Some met and recommended to their respective legislatures to appoint delegates to meet in general convention at Philadelphia for the purpose of reforming the government as the interests of the States might require. Congress approved the recommendation and suggested a convention of delegates to be appointed by the several States to

meet in Philadelphia and to report to Congress and the several legislatures such alteration of the Articles of Confederation as shall, when agreed to in Congress and confirmed by the States, render the Federal Constitution adequate to the exigencies of government and the preservation of the Union.

Accordingly, the convention was composed of deputies appointed by the States, and they voted as States. Madison, in recording their action, on agreeing to the Constitution, says: "It passes in the affirmative, all the States concurring." It was transmitted to the several State legislatures, to be by them submitted to State conventions, and each State for itself ratified at different times, without concert of action, except in the result to be ascertained. As the jurisdiction of a State was limited to its own territory, its ratification was limited to its own people. The Constitution got its validity, its vitality, not from the inhabitants as constituting one great nation, nor from the people of all the States considered as one people, but from the concurrent action of a prescribed number of States, each acting separately and pretending to no claim or right to act for or control other States. That each of these States had the right to decline to ratify and re-

main out of the Union for all time to come, no sane man will deny. Rhode Island and North Carolina did, in the undoubted exercise of an undisputed right, refuse to enter the compact until after the government was organized and Washington entered upon his duties as President. "The assent and ratification of the people," says Madison, "not as individuals composing an entire nation, but as composing the distinct and independent States to which they belong, are the sources of the Constitution. *It is, therefore, not a national, but a federal compact.*"

Virginia, in her ratification as a distinct, sovereign community, had said: "The delegates do, in the name and in behalf of the people of Virginia, declare and make known that the powers granted under the Constitution, being derived from the people of the United States, may be resumed by them whensoever the same shall be perverted to their injury or oppression, and that every power not granted thereby remains with them and at their will."*

Maryland declared that nothing in the Constitution "warrants a construction that the States

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*5 Bulletin of the Bureau of Rolls, 145. 1 Calhoun's Works, 248–251.

do not retain every power not expressly relinquished by them and vested in the General Government of the Union." New York more explicitly said: "That the powers of government may be reassumed by the people whenever it should become necessary to their happiness, that every power, jurisdiction, and right which is not by the said Constitution clearly delegated to the Congress of the United States or the departments of the government thereof, remains to the people of the several States, or to their respective State governments, to whom they may have granted the same; and that those clauses in the said Constitution which declares that Congress shall not have or exercise certain powers, do not imply that Congress is entitled to any powers not given by the said Constitution, but such clauses are to be construed either as exceptions to certain specified powers or as inserted merely for greater caution." Rhode Island lingered until 1790, and then adopted the cautious phraseology of New York, specifying certain rights and declaring that they shall not be abridged or violated, and that the proposed amendments would speedily become a part of the Constitution, gave her assent to the compact, but declared that "the powers of govern-

ment may be reassumed by the people whenever it shall become necessary to their happiness."*

Other States showed equal concern and jealousy. Besides the clear assertion on the part of ratifying States of the right to reassume delegated powers, a larger number were so apprehensive and distrustful of Federal encroachment, so jealous in the maintenance of their respective rights, that they attached bills of rights to their assent or proposed amendments to restrict the general government, the incorporation of which into the Constitution was earnestly insisted upon.

It has now been demonstrated that with jealous vigilance the States retained their separateness as sovereign communities in all the forms of political existence through which they passed. That they adopted their separate State constitutions in their sovereign character is indisputable. That the deputies who framed the Federal Constitution were appointed by the several States each on its own authority; that they voted in the convention by States; that their votes were counted by States; that when framed the instrument was submitted to the people of the several States for their independent ratification; that the States

*5 Bureau of Rolls, 140–145, 190, 191, 311.

ratified and adopted, each for itself, as distinct sovereign communities; that the Constitution had no binding force over a State or its citizens except in consequence of this adoption; that it was valid as a covenant of union, the Federal compact, only as between the States so ratifying the same, are facts alike incontestable. All these acts were by the States and for the States, without any participation on the part of the people regarded in the aggregate as forming a nation. Our controversy arose, not so much from these historical incidents (although historians, judges, editors and congressmen have denied or misinterpreted them all) as from the import and effect and construction of the agreement so formally and cautiously made.

Did the act of ratification of itself, or does the Constitution in its grants, divest the States of their character as separate political communities and merge them all into one nation, one American people? The Constitution superseded the Articles of Confederation because the parties to those articles agreed that it should be so. If they have not so agreed the articles are still binding on the States. In point of fact the Constitution did become obligatory as a compact of government by the voluntary and separate ratification and adoption of the several States. Massachusetts

and New Hampshire, in their ratification, call the Constitution a compact, and the Federal Union must be so, or the result of a compact, because sovereign States would not otherwise have agreed and expressed their agreement. Some made provisos, others suggested amendments, which make plain the intention of the fathers in entering the Union. The apprehensions of consolidation were so strong that to guard against such a possible evil, provisions to prevent were incorporated in the acts of assent.

The right to resume surrendered powers, as affirmed by three of the States, has been mentioned. Massachusetts, South Carolina, New Hampshire and Virginia were so alarmed at the liability to absorption of unsurrendered powers that they proposed an amendment to the effect that each State shall respectively retain every power, jurisdiction and right which had not been delegated in the Constitution. This was modified and adopted in regular constitutional form, and is known as the Ninth Article. All the suggestions were in the nature of limitations and restrictions, showing distrust of centralization and a determined purpose to preserve from invasion or impairment the rights of the States. It was felt that time and experience would show the wisdom of changes and

of adaptations to new environments, and thus it was wisely provided that amendments might be made, but should be valid only "when ratified by the legislatures of three-fourths of the several States or by conventions in three-fourths thereof."

As the States only could make a constitution, so three-fourths of them, as separate political corporations, could amend the instrument. The favorite theory of many, that the States were merged into the government of the Union, into an aggregated unit, is an assumption totally irreconcilable with the fact that this same people can neither alter nor amend their government. When that essential function has to be performed, it is indispensable to summon into new life and activity those very State sovereignties, which, by the supposition, lost their individual power and vitality by the very act creating the instrument which they are required to amend. Had the Constitution originated from the people inhabiting the territories of the whole Union, its amendment would have remained to them, as the amendment of a State constitution belongs to the people of the State. But as such a body of associated people is a myth, a figment of the brain, the power of amendment is left in the hands of the existing bodies politic, the creators of the Constitution and

of the Union. The positive supervising power bestowed by the compact upon the State government and the people over the whole Federal Government flatly contradicts the idea that the same compact designed constructively to bestow a supervising power upon Congress or other department over the State governments.

The government was organized in 1789, and assumed its place among the nations of the earth. Soon amendments proposed by the ratifying States were submitted, as the Constitution prescribed, to the respective States and adopted by them. These amendments have no *direct* relation to the immediate objects for which the Union was formed, and, with few exceptions, were intended to guard against improper constructions of the Constitution, or the abuse of the delegated powers, or to protect the government itself in the exercise of its proper functions. They sought to guard the people and the States against Federal usurpation, and one of them Jefferson pronounced "the corner stone of the Constitution." The ninth amendment prohibits a construction by which the rights retained by the people shall be denied or disparaged by the enumeration, but the tenth, in language that tyranny cannot pervert or dispute, "reserves to the States respectively or

to the people the powers not delegated to the United States nor prohibited to the States."

Could any language more conclusively show the ultimate authority of the States, or that the General Government has no more right to enforce its decision against those of the several States where they disagree as to the extent of their respective powers than the latter have of enforcing their decisions in like cases? This reservation was incorporated from a caution deemed unnecessary and excessive by some, because such a reservation is of the very essence and structure of the Constitution, but it has been vindicated as a marked demonstration of the wisdom and sagacity of the fathers. Instead of *receiving* powers, the States *bestowed* them, and in confirmation of their original authority most carefully reserved every right they had not relinquished. The powers reserved by those who possessed them, the distinct people of each State, are those not delegated or prohibited, and were intended to remove a suspicion of a tendency in the Constitution toward consolidation which had been vigorously charged by some of those who had opposed the ratification. It cannot be reiterated too often that the people do not derive their rights from government. In England Magna Charta and other fran-

chises were granted by kings and residuary rights remain in and with the government; here ungranted rights remain with the grantors, and these are the people of the States.

Relation of States to the Union Under the Constitution.

We are now prepared to consider the action of the South, which rested upon the relation which the States and the Federal Government bore to each other. What the South maintained was that the Union, or General Government, emanated from the people of the several States, acting in their separate and sovereign capacity, as distinct political communities; that the Constitution, being a compact to which each State was a party for the purpose of good government and the protection of life, liberty and property, the several States had the right to judge of infractions of the Constitution, or of the failure of the common government to subserve its covenanted ends, and to interpose by secession or otherwise for protecting the great residuary mass of undelegated powers, and for maintaining within their respective limits the authorities, rights and liberties appertaining to them. The third Virginia resolution of 1798, drawn by Madison, puts this very clearly: "That this assembly doth explicitly and peremptorily de-

clare that it views the powers of the Federal Government as resulting from *the compact to which the States are parties,* as limited by the plain sense and intention of the instrument constituting that compact, as no further valid than they are authorized by the grants enumerated in the compact, and that in case of deliberate, palpable and dangerous exercise of other powers not granted by the said compact, the States, who are parties thereto, have the right and are in duty bound to interpose for arresting the progress of the evil and for maintaining within their respective limits the authorities, rights and liberties appertaining to them."

The States, in adopting the Constitution and surrendering many attributes of sovereignty, might have surrendered all their powers and even their separate existence. Were they guilty of this *felo de se,* or did each retain the equal right to judge of the failure of the government to accomplish stipulated objects as well as of the mode and measure of redress and the means of protecting its citizens? We have held that the obvious and chief purpose of the Constitution was to invest the Federal Government with such powers only as equally affected the members of the community called the Union and to leave to the

States all remaining powers. The greater part of the powers delegated to the General Government relate directly or indirectly to two great divisions of authority—the one pertaining to the foreign relations of the country; the other of an internal character—the purposes for which the Constitution was formed being power, security and respectability without, and peace, tranquillity and harmony within. Mr. Calhoun, in early political life, stated clearly our dual system. The American Union is a democratic federal republic—a political system compounded of the separate governments of the several States and of one common government of all the States, called the Government of the United States. The powers of each are sovereign, and neither derives its powers from the other. In their respective spheres neither is subordinate to the other, but coördinate; and, being coördinate, each has the right of protecting its own powers from the encroachments of the other, the two combined forming one entire and separate government. The line of demarkation between the powers delegated to the Federal Government and the powers reserved to the States is plain, inasmuch as all the powers delegated to the General Government are expressly laid down,

and those not delegated are reserved to the States unless specially prohibited.

Much is said and written in praise of the British Constitution, but in large degree it is intangible and indefinable. It exists in no exact form, except as contained in Magna Charta, Petition of Right and some other muniments of liberty. Elsewhere it is to be searched for in usage, tradition, precedent and public opinion, and chiefly consists in direct parliamentary control of the responsible heads of the great departments of state. Knowing how illusory and deceptive were constitutional guarantees, which existed only in repealable statutes or the varying will of parliament, our ancestors preferred to repose on fixed definitions and asserted rights, embodied in organic law, having more dignity, permanence and sacredness than a mere municipal or statutory regulation. In proportion as power was liable to be abused, it was thought wise to impose and strengthen checks and restraints. If the judgment of the governing body be the only limit to its powers, then there is nothing to control that judgment or to correct its errors. The minority is regulated to the uncertain remedy of rebellion or revolution. Restrictions, however clear and ascertainable, if there be no right or power to enforce, will end in legis-

lative omnipotence which makes useless a written constitution. True liberty demands severe restraints to prevent degeneracy into license and needs a discipline to be compelled by some exterior authority. It is absurd to make one's rights contingent upon the conscience or reason of another.

There is but one safe rule to be adopted by those intrusted with ecclesiastical or civil power—if you do not wish to hurt me, put it out of your power to do so. If a government, or a department of a government, can interpret finally its own powers, or take without hindrance what powers it pleases, then it may as well have had originally all powers, without the mockery of a verbal limitation. Mr. Jefferson deprecated "usurpation of the powers retained by the States, interpolations into the compact, and direct infractions of it," and as late as 1825 solemnly asserted that though a dissolution of the Union would be a great calamity, submission to a government of unlimited powers would be a greater. Under our written Constitution the powers of the government were distributed among several coordinate departments, and instead of being left to be scrambled for were defined with such precision that generally each may ascertain its own,

unless blinded by ambition or partisanship or selfishness. The jurisdiction of each is limited to certain enumerated objects, and this division, with checks and balances, was to prevent the evils Jefferson deplored, and which have always attended irresponsible and ill-defined authority.

As the written Constitution, with all its superiority to unwritten usage, is not self-executory, the practical and vital question continually arises, who is to guard and enforce its limitations, and who is the ultimate arbiter in case of dangerous infractions? The famous Kentucky resolutions of 1798, drawn by Jefferson, affirm that the States composing the Union are not united on the principle of unlimited submission to their general government; that each State, while delegating certain definite powers to that government, reserved the residuary mass of right to their own self-government; and that the government created by the compact to which each State acceded as a State and is an integral party, was not made the exclusive or final judge of the powers delegated to itself, since that would have made its discretion and not the Constitution the measure of its powers. In 1799 he reaffirmed the declaration and added that the principle that the General Government was the exclusive judge of the pow-

ers delegated to it stopped nothing short of despotism.

The favorite allegation of consolidationists is that the Constitution and the laws made in pursuance thereof are the supreme law of the land. No one questions that statement, but what is the Constitution—what laws are in pursuance thereof? The consequent assumption is that the Supreme Court is the safe referee and the final judge. In all questions of a judicial nature of which the court has lawful cognizance, it is the final judge and interpreter, and there is no power in the government to which the court belongs to reverse its decisions or resist its authority, but the jurisdiction of the Federal courts is limited and the Federal judiciary is only a department of the government whose acts are called in question. Numerous instances of usurped powers might occur which the form of the Constitution could never draw within the control of the judicial department. The Supreme Court might assume jurisdiction over subjects not allowed by the Constitution, and there is no power in the General Government to gainsay it.

Charles Sumner, associated in the Northern mind with John Brown as a semi-inspired apostle, spoke in 1854 in lofty scorn of according to the

Supreme Court the "power of fastening such interpretation as they see fit upon any part of the Constitution—adding to it, or subtracting from it, or positively varying its requirements—actually making and unmaking the Constitution; and to their work all good citizens must bow as of equal authority with the original instrument." Sometimes the court is divided, the dissenting judges possessing by universal concession the greater wisdom, more legal learning and ability; sometimes, not bound by its own judgment, the court reverses its decisions and stands on both sides of a question. "If the court itself be not constrained by its own precedents, how can coördinate branches under oath to support the Constitution," and the creating States, "like the court itself, called incidentally to interpret the Constitution, be constrained by them?" Sometimes to procure a reversal it is held that the court, by action of Congress, may hereafter be constituted differently, and we have a memorable precedent of the enlargement of the court and of the appointment of additional justices, whose opinions were well known in advance, in order to secure a reversal of the legal tender decision.

Jefferson, in 1820, saw how by the silent and potential influence of judicial interpretation the

government was in great danger, and he wrote to Thomas Ritchie: "The judiciary of the United States is the subtle corps of sappers and miners constantly working underground to undermine the foundations of our confederated fabric. * * A judiciary independent of a king or executive alone is a good thing, but independence of the will of the nation is a solecism, at least in a republican government." The powers reserved in the tenth amendment are not only reserved against the Federal Government in whole, but against each department, the judicial as well as the legislative and executive. Otherwise the Federal sphere is supreme and the spheres of the States are subordinate.

It cannot be tolerated for a moment that the Supreme Court has the right to modify every power inhering in the State governments, or undelegated by the people, so as to exempt its own action from their influence. That would be to concentrate absolute sovereignty in the court. If the Federal Government, in its entirety, has no authority in the last resort to judge of the extent of its own powers, how can a single department, even the Supreme Court, have this authority? What folly for the States to reserve powers against the Federal Government if that govern-

ment, in whole or in part, has the ultimate decision as to what was reserved! To the Supreme Court all the jurisdiction which properly belongs is cheerfully yielded, but in it no more than in the other departments can be safely reposed the trust of ascertaining, defining, or limiting the undelegated powers of the States.

History is said to be constantly repeating itself. This assumption of the Federal Government through all or either of the departments to decide, ultimately and authoritatively, upon the character and extent of the grants and limitations of the Constitution, upon the powers it possesses, is a claim of absolute sovereignty and is not distinguishable from the unrepublican theory of the Divine Right, as expounded by Filmer and other such writers. Reduced to its real significance, it is practically what was asserted by the "Holy Alliance" of 1815, when certain European sovereigns, under a kind of approved orthodox despotism, assumed the prerogative to perpetuate existing dynasties, to suppress rebellions and revolutions, and to crush out civil and religious liberty. This alliance insisted that governments did not derive their authority or legitimacy from the assent of the people; that all who asserted such political heresies were outlaws and traitors; that

constitutions have no legitimate source except absolute power; that governments grant or withhold what they please; that every movement in opposition to the "powers that be" is a monster to be crushed; and that all resistance to oppression is involved in the same anathema, however legitimate or defensible.

There are some who see and concede the unreasonableness of making the discretion of a majority in Congress the measure of the powers granted or withheld in the Constitution, and that this nullifies the limitations and guarantees of the compact, and they recognize the necessity of resistance and interposition where reserved rights have been trampled on. Declining to accept the State rights theory, they have, under the stress of the necessity of not leaving wrongs unrighted and guarantees disregarded, suggested that the true remedy is an appeal to the "sober second thought" of the people, or, that failing, to a popular uprising to overthrow the offending government. This is the logical fallacy of begging the question. What people? *En masse?* No such people politically ever existed. The people who offended? Who will convince them of their error?

> "When self the wavering balance shakes,
> It's rarely right adjusted."

Rebellion or revolution assumes that the acts complained of were done by legitimate authority, in due course of procedure, according to valid forms. That is the gist of the question in issue. If successful, rebellion becomes right; if unsuccessful, it is treason. It is not an appeal to reason, justice, morality, law, but to brute force. It belongs to the slave, and is the mere right of self-preservation. It is a travesty on freedom, on constitutions, on civilizations. Might can never make right. It is great only in the service of righteousness. Were Satan omnipotent he would be none the less Satan, rather all the more the incarnation of evil, in potent antagonism to the good. Our fathers do not deserve such a reproach. They were not guilty of such folly. With a prescient statesmanship, far beyond their times, they made adequate protection for the rights and liberties of posterity, and made not their maintenance dependent on avoirdupois or the fluctuating will of an interested or fanatical populace.

States Must Decide—Sectionalism Produced Disunion.

The Federal Government, as the representative and embodiment of the delegated powers, has no disposition, and, within itself or in its organiza-

tion, no provisions to prevent the delegated from encroaching on the powers reserved to the several States. This government, neither through the President, the Congress, nor the courts, having the right to determine finally whether the compact has been dangerously violated or has failed to subserve the purpose of its formation, it follows irresistibly that where the forms of the Constitution prove ineffectual against dangers to the equality and essential rights of the States, the parties to it, these States have the sole right to interfere for arresting the progress of the evil and for maintaining within their respective limits the rights and liberties appertaining to them. The interposition of a State in its sovereign character, as a party to the constitutional compact, was the only means furnished by the system to resist encroachments and prevent entire absorption of the powers which were purposely withheld from the General Government. Madison said: "Where resort can be had to no tribunal superior to the authority of the parties, the parties themselves must be the rightful judges in the last resort, whether the bargain made has been pursued or violated. The Constitution of the United States was formed by the sanction of the States, given by each in its sovereign capacity. The States,

then, being parties to the constitutional compact and in their sovereign capacity, it follows of necessity that there can be no tribunal above their authority to decide, in the last resort, whether the compact made by them be violated, and consequently that, as the parties to it, they must themselves decide, in the last resort, such questions as may be of sufficient magnitude to require their interposition." An assemblage of citizens of Boston in Faneuil Hall, in 1809, state, in a celebrated memorial, that they looked only to the State legislatures, who were competent to devise relief against the unconstitutional acts of the General Government. "That your power is adequate to that object is evident from the organization of the confederacy."

How the States were to exercise this high power of interposition, which constitutes so essential a portion of their reserved rights that it cannot be delegated without an entire surrender of their sovereignty and converting our system from a federal into a consolidated government, is a question that the States only are competent to determine. The reservation of powers is to "the States respectively"; that is, to each State separately and distinctly. The Constitution contains

no provision whatsoever for the exercise of the rights reserved nor any stipulation respecting it.

It does not seem reasonable to look to the Government of the United States, in which the delegated powers are vested, for the means of resisting encroachments on the reserved powers. That would be to expect power to tie its own hands, to relinquish its own claims, or to look for protection against danger to the quarter from which only it could possibly come.*

Every sovereignty is the judge alone of its own compacts and agreements. Each State *must* have the right to interpret the agreement for itself unless it has clearly waived that right in favor of another power. That it has not been waived has been placed beyond refutation, for otherwise the powers of the government at Washington are universal and the enumerations and reservations are idle mockeries. And so a written constitution, however carefully guarded the grant and limitations, is no barrier against the usurpations of governments and no security for the rights and liberties of the people. Restrictions are contemptuously disregarded or undermined by the gradual process of usurpation, until the instrument is of no more force, nor any more re-

*1 Calhoun, 237.

spected, than an act of Congress. Constitutional scruples are hooted at, and suggested barriers of want of authority are ridiculed as abstractions or the theories of political *doctrinaires*. The Federal judiciary, the Congress, the Executive, the Constitution, the Union, are but emanations of the sovereignty of the States, and the States are not bound by their wishes, necessities, action, except as they have agreed to be bound, and this agreement was made, not with the Union, the Federal Government, their agent and creature, but with one another. "Vicious legislation must be remedied by the people who suffer from the effects of it, and not by those who enjoy its benefits." (Bryan). They made their compact as sovereign States, and as such they alone are to determine the nature and extent of that agreement and how far they are to be bound. Each State was grantor and grantee receiving precisely what it had granted.

The Federal Government was in no sense a party to the Constitution; it has no original powers and can exert only what the States surrendered to it, and these States, from the very nature and structure of the common government, are alone competent to decide, in the last resort, what powers they intended to confer

upon their agent. The States were not so stupid as to confer upon their creature, the Union, the power to obliterate them, or reduce them to the relation of dependence which counties sustain to the State. This high, supreme, ultimate power of our whole system resides in its fullness in the people of the several States, the only people known to us as performing political functions. The General Government is not superior to the States, and has no existence nor autonomy outside, irrespective of, contrary to, the States. The Union could not exist a day if all of the States were to withdraw their coöperation. The President, the Senate and Representatives, with all their powers, are conditioned upon the action of the States. Hamilton, in Federalist, No. LIX., said: "It is certainly true that the State legislatures, by forbearing the appointment of senators, may destroy the National Government." The Federal Government, the Union, as a corporate body politic, does not claim its life, nor a single power, from the people apart from State organizations.

In truth and in fact there is not, nor ever has been, such a political entity as the people of the United States in the aggregate, separated from, independent of, the voluntary or covenanted

action of the States. That anything is constitutional or admissible simply because the judiciary, or the Executive, or the Congress, or the moral convictions of citizens approve, or the country will be benefited by it, is a modern invention, and has no basis in our constitutional federal republic. To put in it the least objectionable form, the States, in their undelegated powers, are as important, as supreme, as the General Government, and the theory of State subjugation, of provincial dependencies, is a pure afterthought to justify arbitrary and ungranted authority. It is indisputable that by far the greater part of the topics of legislation, the whole vast range of rights of person and property—where the administration of law and justice comes closest home to the daily life of the people—are exclusively or chiefly within the power of the States. The number of topics of legislation which lie outside the pale of national legislation greatly exceeds the number to which the power of State legislation does not extend.*

If the Union be indissoluble, with equal or greater propriety, we may affirm that the States are equal and indestructible.

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*Federalist, No. XIV.; Mich. Lect. 244; 1 Calhoun, 197, 204, 214, 215.

When the adoption of the Constitution was under discussion before the State conventions, with an uncertain result, its enemies were alarmed on account of the magnitude of powers conferred on the General Government, and its friends were fearful because of alleged feebleness in comparison with extent of reserved powers; but neither party contended that an increase or diminution of power could constitutionally be made by implication and inference so as to equip the central government with all the means it derived in the warfare with antagonists. The authors of The Federalist—the essays written to secure the acceptance of the Constitution—insisted that the apprehended inequality did not exist, and that should it be developed the States would be able to control. Hamilton wrote: "The General Government can have no temptation to absorb the local authorities left with the States. * * * It is, therefore, improbable that there should exist a disposition in the Federal councils to usurp the powers with which commerce, finance, negotiation and war are connected. Should wantonness, lust of domination, beget such a disposition, the sense of the people of the several States would control the indulgence of so extravagant an appetite." This redundant exposition of the doc-

trine that there can be no tribunal above the authority of the States, and that in them reside the ultimate decision, has been made because there is such a painful misunderstanding of the relation the Federal Government sustains to the States, and of the comparative authority, power and value of the Union and of the States.

The forebodings of those who dreaded an undue enlargement of the powers of the central government—the increase of centripetal tendencies to the weakening of the centrifugal—have been more than realized. Instead of a rivalry between the General Government and the States, between the delegated and the reserved powers, the antagonism has proved unreal and fallacious, and the strong trend has been and is to centralization, justifying the prediction of Jefferson that "when all government, domestic and foreign, in little as in great things, shall be drawn to Washington as the center of all power, it will render powerless the checks provided of one government on another, and will become as venal and oppressive as the government from which we separated." By an irresistible tendency the stronger has absorbed the weaker, and is concentrating in itself unlimited and uncontrollable power. This usurpation has been carried so far that nothing

short of an absolute negative on the part of the States can protect against the encroachments of a growingly centralized government.

For a few years, and naturally, States were superior in dignity, and two citizens of South Carolina declined positions on the Supreme Court, one the chief-justiceship. The enlargement of territory, the multiplication of States, the glory resulting from successful wars, the enormous prosperity caused by varied climate and products, free interstate commerce, religious liberty, the stimulus of free institutions, extensive landed proprietorship, the immense Federal and subsidizing expenditures, government partnership in business, the building up of favored classes and interests by protective tariffs and bounties and discriminating fiscal policy, the vast number of Federal offices constituting Executive patronage and conferred not as a trust for the public good, but as spoils of office and rewards for partisans; a huge pension system, destroying local patriotism of recipients and corrupting States—have magnified the Government at Washington and given from exuberance of strength a resistless impulse, adverse to its Federal and favorable to a consolidated character. This revolutionary change has been attended by the grossest inequality, because a majority has

centered in one section, giving it absolute control on all questions which coincide with its views and interests.

As the government has been centralized, nationalized, lost its original character as a constitutional Federal republic, its power has grown by what it has fed upon and its patronage has become more tempting and widespread. Proportionate with power and patronage, and increasing with their increase, will be the desire to possess the control over them, for the purpose of individual or sectional aggrandizement; and the stronger this desire the less will be the regard for principles and the Constitution, and the greater the tendency, accompanied by increase of ability, to unite for sectional domination.*

The tariff system, framed in the interests and at the dictation of classes and persons that contribute liberally in elections; the taxation practically of agricultural exports, grown preponderantly in one section; the partial, inequitable appropriations for rivers, harbors, public buildings; the concentration of the financial operations of the government in one quarter of the Union; the theories of the latitudinous inter-

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*1 Calhoun, 241, 371.

pretation of the Constitution which dominated parties and dictated political and legislative action at the North, investing Congress with the right to determine what objects belong to the general welfare, have been most potential in enriching one section to the prejudice of the other, and in enlarging the power, prestige and influence of the Union.

The power of Congress to levy duties on imports for specific purposes has been enlarged into an unlimited authority to protect domestic manufactures against foreign competition. The effort of this has been "to impose the main burden of taxation upon the Southern people, who were consumers and not manufacturers, not only by the enhanced price of imports, but indirectly by the consequent depreciation of the value of exports, which were chiefly the products of the Southern States." The increase of price was not always paid into the public treasury, but accrued somewhat to the benefit of the manufacturer. What revenues went into the treasury were disbursed most unequally, and the sectional discrimination, enriching one portion to the injury and inequality of the other, tended to direct immigration to the North and to increase the functions and influence of the Federal Govern-

ment. The majority, doing the injustice, claim to be the sole judges of the rightness of their action and whether or not the power is lodged in their hands. The minority have no rights which the majority are bound to respect, or if they have, there are no means of asserting and vindicating them. The majority, which are sectional, possess the government, measure its powers, and wield them without responsibility. Enriched by their own acts, becoming proud, insolent, greedy of power and gain, inflamed by cupidity, avarice, monopoly, they arrogate and usurp; and, with each succeeding day, what was very questionable becomes by force of unresisted precedent a principle, and self-conceit transmutes exercise of power into piety, and the judgment of parties and the interest of classes into a higher law, into the will of God.

We find in England and other countries an aristocracy, the classes in the enjoyment of pensions, tithes, monopolies, vested rights, exclusive privileges, until, with blunted sensibilities and beclouded intellects, they delude themselves into acquiescence in, and support of, such inequalities and wrongs. So in the United States, under powers granted in the Constitution, such as levying duties and taxes, regulating commerce,

war, appropriating money, disposing of territory and other property, admitting new States, the government during the Confederate war incorporated banks, made fiat money or promises to pay a legal tender, constructed roads, granted bounties and monopolies, gave away the property of the people, prescribed State constitutions, emancipated slaves, fixed terms and conditions of suffrage, dictated manner of appointing and electing senators, assumed control over railways and industries, and absorbed and exercised a sovereign power over interstate commerce, capital, labor, currency and property. We have seen an alliance between Congress and eleemosynaries, senators taking care of their private affairs in revenue bills, and manufacturers before sub-committees of ways and means and of finance dictating the subjects to be taxed and the amount of duties to be levied.

One wonders how these revolutions and iniquities have been accomplished. Governor Morris wrote to Timothy Pickering that "the legislative lion will not be entangled in the meshes of a logical net. The legislature will always make the power which it wishes to exercise." One of the ablest expounders of the Constitution deplores "the science of verbality," the artifice of so ver-

balizing as to assail and destroy the plainest provisions. The instrumentality of inference has sapped and mined our political system. Acuteness of misinterpretation and construction has accomplished what the framers of the Constitution exerted all their faculties, by specifications and restrictions, to prevent, so that constructive powers have been as seed-bearing of mischief and usurpation as the doctrine of constructive treason.

Alexander Hamilton believed honestly that nothing short of monarchical institutions would prove adequate to the wants of the country, and in the convention of 1787 he sought to conform the new government, while in process of construction, to the model of the British, which he regarded as the best ever devised by the wit of man. He had not a single supporter, and afterward, ably and effectively, with marked patriotism, he threw his pen and voice in favor of ratification. But this he did avowedly as a temporary bond of union and as the only avenue of escape from anarchy. Appointed to assist in carrying the government into effect and sincerely believing that with no other powers than those he so well knew it was intended to authorize, it must prove a failure, and the government must go to pieces,

he decided unhesitatingly to do under it whatever he, in good faith, might think would promote the general welfare, without reference to the intention of the authors of the Constitution. The discussions to show that his principal measures were authorized by the instrument, were in deference to the prejudices and ideas of the people—nothing more. The principle of construction he espoused was to make good all laws which Congress might deem conducive to the general welfare, and which were not expressly prohibited, a power similar to that contained in the plan he proposed in the convention. He desired, in short, to make the Constitution a tablet of wax upon which each successive administration would be at liberty to impress its rescripts to be promulgated as constitutional edicts.*

Hamilton laid the foundation of his policy so deep and with so much skill that it has been impossible to reverse, especially under conditions so favorable to centralization. He invoked in support of his measures the selfishness, the cupidity, the ambition of classes, and sought to make the strength of the government depend, as in England, on the interested support of an intelligent and combined few. An impulse in ac-

*Van Buren's Pol. Parties in U. S., 211, 213.

cordance with his theory was impressed, and has since constantly been strengthened. It is not uncommon to hear the Constitution ridiculed as an abstraction or an effete formula. The government has grievously departed from its federal character, and reserved powers are so far removed from possible application in case of controversy, that State rights, when seriously mentioned, provoke contempt or ridicule. In 1824 Jefferson wrote to Van Buren: "General Washington was himself sincerely a friend to the republican principles of our Constitution. His faith might not, perhaps, have been as confident as mine, but he repeatedly declared to me that he was determined it should have a fair chance of success, and that he would lose the last drop of his blood in its support against any attempt which might be made to change it from its republican form."

Why the South Resisted Federal Encroachments.

It can now clearly be seen why the South, being a minority section, with agriculture as the chief occupation, and with the peculiar institution of African slavery fastened on her by Old England and New England, adhered to the State rights, or Jeffersonian, school of politics. Those doctrines contain the only principles or policy truly conservative of the Constitution. Apart from them

checks and limitations are of little avail, and the Federal Government can increase its powers indefinitely. Without some adequate restraint or interposition, the whole character of the government is changed, and *forms*, if retained, will be, as they have been in other countries, merely the disguises for accomplishing what selfishness or ambition may dictate. The truest friends of the republic have been those who have insisted upon obedience to constitutional requirements. The real enemies, the true disunionists, have been those who, under the disguise of a deceptive name, have perverted the name and true functions of the government and have usurped, for selfish or partisan ends, or at the demand of crazy fanaticism, powers which States never surrendered.

Those who contend most strenuously for the rights of the States and for a strict construction of the Constitution are the genuine lovers and friends of the Union. Their principles conserve law, good order, justice, established authority; and their unselfish purpose has been to preserve and transmit our free institutions as they came from the fathers, sincerely believing that their course and doctrines were necessary to preserve for them and posterity the blessings of good government. The States have no motive to encroach on the Federal Government, and no power to do so, if so inclined,

while the Federal Government has always the inclination and always the means to go beyond what has been granted to it. No higher encomium could be rendered to the South than the fact, sustained by her whole history, that she never violated the Constitution, that she committed no aggression upon the rights or property of the North, and that she simply asked equality in the Union and the enforcement and maintenance of her clearest rights and guarantees. The latitudinous construction, contended for by one party and one section, has been the open door through which have entered the grievances of which the people have complained. A strict construction gives to the General Government all the powers it can beneficially exert, all that is necessary for it to have, and all that the States ever purposed to grant.

Passion, revenge, cupidity, ignorance and fanaticism have created an incurable misunderstanding of secession, its source and object. In its simplest form and logically it meant a peaceable and orderly withdrawal from the compact of union, a dissolution of the civil partnership, a claim of the paramount allegiance of citizens, a declension to continue under the obligations due to or from the Federal Government or the other States. The authority of the Constitution re-

mained intact and unimpaired over the States remaining in the Union, and ceased only as to the seceding States. The remaining or continuing States had no right of coercion nor of placing the "wayward sisters" in the attitude of an enemy. The history of the Union does not show any eagerness on the part of any State to interpose its sovereign power for protection. During the first quarter of our existence as a confederate union, New England showed much impatience at remaining under the bonds, made angry and repeated threats of dissolution, but did not execute her menaces. The truth is, that the Union is so strong, has so many advantages, so many patriotic associations, that the motives and reasons for continuance in it, for patient forbearance, for submission even to iniustice and wrong, are wellnigh overwhelming.

The Southern States through many years showed the strength of their attachment to the Union by immeasurable sacrifices, illustrated their patriotism by acts of heroic devotion, and got their reluctant consent to a separation only after a series of unendurable wrongs, and the most indisputable demonstration of the purpose of a united North to deprive them of solemn guarantees of equality in the Union. From the "Missouri compromise"—prohibiting Southern exten-

sion north of the line of thirty-six degrees thirty minutes—substituting a new confederation for the old, drawing a geographical line, south of which was to be equality, north of which the Southern States were proscribed, dishonored, stigmatized, establishing the policy of an interference by Congress with an interest not common among all the States, and thus creating two great combinations of States, between which mutual provocations were manufactured, down to the War between the States, the Congress and the government repeatedly and offensively declared that the Southern States were not the equals of the Northern States in the benefits of the Union, that property recognized and guaranteed in the Constitution must be restricted within narrow lines, and that "territory of the United States," obtained at the cost of common blood and common treasure, was not to be equally enjoyed, but was to be for the exclusive possession of the Northern States with their civilization and property.

Wendell Phillips, the scholar, lawyer, orator, wrote a pamphlet in 1845, "Can Abolitionists Vote or Take Office Under the United States Constitution?" and later a more elaborate treatise, "The Constitution a Pro-Slavery Compact," in which he alleged and proved that the Constitution was a "compromise," "granting to the slave-

holder distinct privileges and protection for his slave property, in return for certain commercial concessions on his part toward the North." The extracts from the Madison Papers and other contemporaneous documents, prove, said Phillips, "that the nation at large was fully aware of this bargain at the time, and entered into it willingly and with open eyes." "Every candid mind must acknowledge that the Constitution is clear and explicit." "If the unanimous, concurrent, unbroken practice of every department of the government, judicial, executive and legislative, and the acquiescence of the whole people for fifty years, do not prove what is the true construction, then how and where can such a question ever be settled?" (See pages 5, 7, 8, *et passim*).

The Northern States, not in the regular and prescribed form, but in most irregular, illegal, and contemptuous manner, by ecclesiastical action and influence, by legislative and judicial annulment, by public meetings, by pulpit and press, by mobs and conspiracies and secret associations, made null and void a clear mandate of the Constitution, protective of Southern property and adopted as an indispensable means for securing the entrance of the Southern States into the Union. To use the language of President Harrison: "Government of the mob was given prefer-

ence over government of the law enforced by the court decrees and by executive orders." The highest Northern judicial and historical authorities concede that the Union would never have been formed without these compacts of guarantee and protection. This constitutional provision was sustained by the Supreme Court and by every Congress and President up to 1861.

Ten Northern States, with impunity, with the approval of such men as Governor Chase, afterward Secretary of the Treasury under Mr. Lincoln and Chief Justice of the Supreme Court, nullified the Constitution, declared that its stipulation in reference to the reclamation of fugitives from labor was "a dead letter," and to that extent they dissolved the Union, or made an *ex parte* change of the terms upon which it was formed. These States did not formally secede, but of themselves, without assent of those Mr. Jefferson described as "coparties with themselves to the compact," changed the conditions of union and altered the articles of agreement. Releasing themselves by their own motion, in most arbitrary, extra-judicial, extra-constitutional manner, of a covenant or injunction of the Constitution, because in their opinion it was unwise, they still, while thus *in flagrante delicto,* demanded obedience to the Constitution

and laws on the part of the other cosignitaries to the league of government.

In the election of 1860, on sectional issues and securing sectional ascendency, this rebellion against legitimate authority, this nullification, this assumption of a right to self-release from an imperative constitutional requirement, this setting up of private judgment, of individual or corporate whim, against statutory and organic law, and unbroken line of judicial precedents and the undisputed history of the formation of the Constitution, was sanctioned by the popular vote of the North and the election of President Lincoln, who had boldly declared that the States could not remain in union as they had originally agreed and stipulated. In that election, in direct antagonism to the opinions and covenants of the men who achieved our independence and framed and adopted the Constitution which made the Union, it was deliberately decided that the States could not exist together as slaveholding and non-slaveholding, and that "the irrepressible conflict" between them must go on until "the relic of barbarism" should be effaced from constitutions and laws.

That election divided the Union into fixed hostile geographical parties, strongly distinguished by institutions, traditions, opinions and productions

and pursuits, the stronger struggling and by the popular verdict licensed to enlarge its powers, and the weaker striving to save its equality and rights. It placed in the hands of the stronger, dominated by a fanatical spirit, the power to crush the weaker section and institutions, to destroy at will the existing constitutional relation between the races, and to leave no alternative but reduction to provincial condition, or resistance. With the ascendency previously acquired by territorial monopoly and government favoritism, it was now made certain that political power was centralized permanently in the North for the control and subjection of the South whenever the feelings or interests of the sections came into conflict. What the result would be it required no seer to prophesy.*

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* Whether the North had any purpose to uphold the Constitution and give equality in the Union may be judged from the appended opinions:

"There is a higher law than the Constitution which regulates our authority over the domain. Slavery must be abolished, and we must do it."—*Wm. H. Seward.*

"The time is fast approaching when the cry will become too overpowering to resist. Rather than tolerate national slavery as it now exists, let the Union be dissolved at once, and then the sin of slavery will rest where it belongs."—*N. Y. Tribune.*

"The Union is a lie. The American Union is an im-

The Southern States believed that the transfer of the government to pronounced hostility to their institutions involved a repudiation of the covenanted faith of their sister States, and released them from the burden of their own covenants when they were denied the benefit of the corresponding covenant of the other contracting States. Seeing the hopelessness of security from President, or Congress, or courts, or public opin-

posture, a covenant with death and an agreement with hell. We are for its overthrow! Up with the flag of disunion, that we may have a free and glorious republic of our own."—*William Lloyd Garrison.*

"I look forward to the day when there shall be a servile insurrection in the South; when the black man, armed with British bayonets, and led on by British officers, shall assert his freedom and wage a war of extermination against his master. And, though we may not mock at their calamity nor laugh when their fear cometh, yet we will hail it as the dawn of a political millennium."—*Joshua R. Giddings.*

"In the alternative being presented of the continuance of slavery or a dissolution of the Union, we are for a dissolution, and we care not how quick it comes."—*Rufus P. Spaulding.*

"The fugitive-slave act is filled with horror; we are bound to disobey this act."—*Charles Sumner.*

"The *Advertiser* has no hesitation in saying that it does not hold to the faithful observance of the fugitive-slave law of 1850."—*Portland Advertiser.*

"I have no doubt but the free and slave States ought to be separated. * * * The Union is not worth

ion, all inflexibly averse to their constitutional rights, as understood by the patriot fathers, they felt constrained to withdraw from a government which had ceased to be what those fathers made it. Not to have done this would have been to leave the stronger section in entire and hostile control of the government and to consolidate the powers of our compound system in the central head. The last hope of preserving the Constitu-

supporting in connection with the South."—*Horace Greeley.*

"The times demand and we must have an anti-slavery Constitution, an anti-slavery Bible, and an anti-slavery God."—*Anson P. Burlingame.*

"There is merit in the Republican party. It is this: It is the first sectional party ever organized in this country. * * * It is not national; it is sectional. It is the North arrayed against the South. * * * The first crack in the iceberg is visible; you will yet hear it go with a crack through the centre."—*Wendell Phillips.*

"The cure for slavery prescribed by Redpath is the only infallible remedy, and men must foment insurrection among the slaves in order to cure the evils. It can never be done by concessions and compromises. It is a great evil, and must be extinguished by still greater ones. It is positive and imperious in its approaches, and must be overcome with equally positive forces. You must commit an assault to arrest a burglar, and slavery is not arrested without a violation of law and the cry of fire."—*Independent Democrat, Leading Republican Paper in New Hampshire.*

tion of the Union being extinguished, nothing remained except to submit to a continuation of the violation of the compact of union, the perversion of the grants of power from their original and proper purposes, or to assert the sovereign right of reassuming the grants which the States had made.

Secession the Separate and Legal Act of the States.

It is not uncommon to confound the secession of a State, as a separate, independent, sovereign act, with the subsequent establishment of a confederacy or a common government, by the cooperative action of several States after they had seceded. A State, by virtue of its individual, sovereign right, demonstrated in this introductory chapter, repealed or withdrew its act of acceptance of the Constitution, as the basis or bond of union, and resumed the powers which had been delegated and enumerated in that instrument. This act of resumption of delegated powers, assertion of undelegated sovereignty, was not by the legislature. There is in our American system what is not found elsewhere, a power above that of the Federal or of the State government, the power of the people of the State, who ordained and established constitutions for and over them-

selves. No secret conspiracy was needed, no mask to conceal the features of the State, no secret place in which to concoct or consummate the designs. Everything was done in broad daylight, and inspection was invited to the accomplishment of what had been repeatedly avowed as the logical consequence of sectional supremacy. The people of the State—the only "people" then known under our political system—had a regularly and lawfully constituted government already in their hands and subject to their direction. They had a complete corps of administrative officers, an executive, a legislature, a judiciary, filling every department of a free, representative government, all holding office under State authority alone and wearing no badge of official subordination to any power. This government was complete in all its functions and powers, unchanged as to its internal affairs, altered only in its external or Federal relations, and law and order reigned in every portion of the State precisely as if no change had occurred. The secession was as valid as the act of ratification by which the State entered the Union. The secession, or withdrawal of a State from a league, had no revolutionary or insurrectionary character, and nothing which could be tortured into rebellion or treason except by ignorance or malignity.

Several States having openly, with most public declaration of purposes, withdrawn from the compact, they established a union, a confederacy of States, for themselves. The Confederate Constitution was formed, adopted and ratified in precisely the same manner and by the same forms and agencies as the Constitution of the United States. Not a clause nor article interfered with the right of any Northern State or citizen. No assault was made upon property or institutions of any other people. The model of the Constitution of the Union, which had been respected, obeyed and revered by the Southern States, was followed, with only such changes as time and experience had demonstrated to be necessary for the States to retain their equality in the Union and have their guaranteed rights respected. There seemed no other alternative for the security of the domestic institutions of self-governing States—institutions over which neither the Federal Government nor people outside the limits of such States had any control, and for which they had no moral or legal responsibility. Southern life was habitually denounced as utter "barbarism," and an institution of the remotest origin, sanctioned in the Old and New Testaments and by the law of nations, and upheld for centuries by all civilized governments, and existing at the time of the Declaration of Inde-

pendence in all the States, was held up to odium as "the sum of all villainies," and the Constitution, because of its explicit recognition and guarantee of this institution, was spurned as "a covenant with death and an agreement with hell." It was a logical and inevitable inference that the predominant and fanatical sentiment of the North should purge the country of such an "unmitigated crime" by its speedy suppression, and that invested with or arrogating supreme power, it should throw its irresistible weight in the sacrifice of Southern interests to a remorseless and destructive propagandism.

No one would now hazard the assertion that if the Southern States had acquiesced in the result of the elections of 1860, the equality and rights of the Southern States could have continued unimpaired by the unfriendly action of the government at Washington and of the Northern States. We need not be left to conjecture as to what would have occurred, for a few years later—not during the frenzy of the war, but in the flush of victory and the strength of peace—we had a notable illustration of the insecurity of reliance upon the clearest constitutional prohibition. The Supreme Court, exercising its constitutional power and duty, gave an interpretation to the legal tender law that was not pleasing to Congress and certain

moneyed interests. As a rebuke and remedy the court was reconstructed, the number of judges was increased, to reconsider and reverse the judgment, and this process President Harrison, speaking on a kindred subject in a political address in New York, characterized as "packing the court with men who will decide as Congress wants them to."

Perhaps more conclusive proof of the insecurity of a minority and of unresisted tendency toward assumption of all power which may be supposed to be needed for the accomplishment of coveted ends, may be found in the reconstruction measures, which were deliberately purposed to punish "the rebels" and to subject the white people to negro domination. Roger Foster, in his commentaries on the Constitution, 1896 (pages 265-267), speaks of the dealings of Congress and the Federal Government with the Southern States during the period of reconstruction. At his hands the story becomes a gloomy tale of vacillation, intimidation and fraud; but he tells it with plainness and directness and with more than his usual force. In his opinion "the validity of the acts of Congress" is "open to investigation," and, "in view of the language of the Constitution, the decisions of the courts on cognate questions, and the action of Congress in other respects toward

the States which were the seat of the insurrection, it seems impossible to find any justification for them in law, precedent, or consistency. * * * The reconstruction acts must consequently be condemned as unconstitutional, founded on force, not law, and so tyrannical as to imperil the liberty of the entire nation should they be recognized as binding precedents."

The change of sentiment in reference to John Brown is a startling revelation of the rapidity with which sectional and political hostility can pervert the judgment and the conscience. In October, 1859, this bold, bad man attempted his bloody foray into Virginia, fraught with most terrible consequences of spoliation of property, arson, insurrection, murder and treason. The raid was a compound of foolhardiness and cruelty. Conservative and respectable journals and all decent men and women denounced at the time the arrogant and silly attempt of the murderer to take into his destructive hands the execution of his fell purposes. Sympathy with those purposes and his methods was vehemently disclaimed by representatives of all parties in Congress, conspicuously by Hon. John Sherman. Few, except red-handed and insane fanatics, lifted voice against his execution, after a fair trial and just verdict by a Virginia court. A Senate committee,

after a laborious investigation of the facts, submitted a report, accompanied by evidence, and said: "It was simply the act of lawless ruffians, under the sanction of no public or political authority, distinguishable only from ordinary felonies by the ulterior ends in contemplation by them, and by the fact that the money to maintain the expedition, and the large armament they brought with them, had been contributed and furnished by the citizens of other States of the Union under circumstances that must continue to jeopard the safety and peace of the Southern States, and against which Congress has no power to legislate." Now, John Brown inspires a popular song and poetry and eloquence, almost a national air, and Northern writers and people compare him to Jesus Christ and put him in the Saints' Calendar of Freedom.

The organization of the Grand Army of the Republic has become a potent political agency, demanding that Union soldiers shall have preference, and making connection with the army, irrespective of service or personal merit, the highest consideration in appointments to places of profit and trust. Akin to this, a gigantic pension system, heavier and more exhaustive than the support of the huge standing army of Germany, has been fastened on the public treasury, subsidizing

States and making the name of soldier or sailor the passport to the support of himself and family. The strange and vicious doctrine has been affirmed over executive protest that fraud and perjury do not vitiate a pension once allowed, and that any disabilities incurred, whether in the line of duty or of pecuniary aggrandizement, within the "sphere of communication" with either army, are sufficient grounds for the paternal adoption of such a son. And a presidential candidate, in his letter of acceptance of the nomination, seeking argument for popular support, makes the "need" of a soldier or sailor, however that need may have been created, a sufficient plea for "generous aid" by the government.

As has been affirmed and reiterated, the action of the seceding States was deliberate and most publicly pre-announced. The Northern States and the government at Washington were not taken by surprise, for the purpose of the South, in a certain anticipated contingency, was well known and had been repeatedly and solemnly declared. Exercising a right claimed by the States in their ratification and adoption of the Constitution, and reaffirmed from that day continuously, the seceding States neither desired nor expected resistance to their action. The power to coerce States had been explicitly rejected in the

convention. Hamilton said: "To coerce the States was one of the maddest projects ever devised." No provision had been made by any of the States to meet a resistance to their withdrawal from the partnership.*

Not a gun, not an establishment for their manufacture or repair, nor a soldier, nor a vessel, had been provided as preparation for war, offensive or defensive. On the contrary, they desired to live in peace and friendship with their late confederates, and took all the necessary steps to secure that desired result. There was no appeal to the arbitrament of arms, nor any provocation to war. They preferred and earnestly sought to make a fair and equitable settlement of common interests and disputed questions with their former associates, so as to preserve most amicable relations and avoid the infliction of any damage or loss.

On May 8th, 1861, the President submitted a special message to Congress, communicating a report of Judge Campbell, stating what he had done in connection with the commissioners who had been appointed to secure a peaceful adjustment of the pending difficulties between the two gov-

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*Madison Papers, 732, 761. 822, 914; 2d Elliot's Debates, 199, 232, 233.

ernments. In the papers were letters from Judge Campbell to President Davis and to Secretary Seward, the latter having been submitted to Mr. Seward, who did not reply or publicly question the correctness or accuracy of the recital. Judge Campbell held written and oral conferences with Secretary Seward, and from these he felt justified in writing to Mr. Seward: "The commissioners who received these communications conclude they have been abused and overreached. The Montgomery Government hold the same opinion." "I think no candid man who will read over what I have written, and consider for a moment what is going on at Sumter, but will agree that the equivocating conduct of the administration, as measured and interpreted in connection with these promises, is the proximate cause of the great calamity." He further affirmed the profound conviction of military and civil officers "that there has been systematic duplicity practiced on them through me." President Davis had previously said: "The crooked paths of diplomacy can furnish no example so wanting in courtesy, in candor, in directness, as was the course of the United States Government toward our commissioners in Washington."

A peace convention was held in Washington city, with representatives from border and other

States, to devise terms of honorable adjustment and prevent the calamity of war or disunion. Mr. Crittenden, of Kentucky, a statesman of experience, ability and conservatism, submitted a series of compromise measures, and they were indignantly and insultingly rejected. The Speaker of the House of Representatives was not allowed even to present certain proposed amendments to the Constitution, looking to pacification, while the convention in Virginia, so unwilling, so reluctant, to take extreme steps, tendered to Senator Crittenden, by a unanimous vote, the thanks of the people of the State for his able and patriotic efforts "to bring about a just and honorable adjustment of our national difficulties."

It is not within the scope of this article to detail incidents of the war; it is fitting, however, to animadvert upon an oft-repeated accusation and to furnish such proof of its falsity as to leave hereafter no loop to hang a doubt upon. It is a common excuse for early defeat and inability "to crush the rebellion in ninety days," that the Confederacy was better supplied than the government of the United States with the means and appliances of war. This explanation on its face is

absurd, for how could an infant, suddenly improvised government, without a dollar, without a sailor, without a ship, without a manufactory of guns or powder, be better equipped than a strong, well-established government, constantly engaged in Indian wars and having a regularly equipped army and navy and no inconsiderable plants for their maintenance? Mr. Goldwin Smith, of Canada, in his work on the United States, says that at the beginning of the war the South was able to draw upon the supplies stored in the arsenals, which had been "well stocked by the provident treason of Buchanan's Minister of War." Senator Sherman, in his "Recollections," repeats the absurd story, and says that in the early days of the war the Confederates, because of this surreptitious aid, had superior means of warfare. General Scott endorsed the accusation against Secretary Floyd in regard to what has been called "the stolen arms," and thus contributed to the belief of respectable people that the Confederate States fought with cannon, rifles and muskets treacherously placed in their hands.

In the book on his administration (and there can be no better authority) Mr. Buchanan says, page 220: "This delusion presents a striking illustration of the extent to which public prejudice may credit a falsehood, not only without

foundation, but against the clearest official evidence." Eighteen months before General Scott's endorsement of the charge it had been condemned as unfounded by the report of the Committee on Military Affairs of the House of Representatives. The disproved slander that arms had been fraudulently or otherwise sent to the South to aid the "approaching rebellion" is in accord with the concerted purpose of writers and politicians to falsify the record and make apology for Northern reverses. General Scott made specific charge that Secretary Floyd removed "115,000 extra muskets and rifles, with all their implements and ammunition, from Northern repositories to Southern arsenals, so that, on the breaking out of the maturing rebellion, they might be found without cost, except to the United States, in the most convenient positions for distribution among the insurgents." He also charged that 130 or 140 pieces of heavy artillery were ordered from Pittsburg to Ship Island and Galveston, forts not yet erected. The charge vouched for by public rumor underwent a searching official investigation by a committee authorized to send for persons and papers and to report at any time. It was most easy to establish the charge, if true, for these arms could not have been re-

moved without the knowledge and active participation of the officers of the Ordnance Bureau, whose loyalty had never been impugned nor suspected. The accusation may be reduced to three indictments:

First. That arms were improperly distributed to the Southern States prior to and preparatory for premeditated rebellion. Tables furnished from the Ordnance Bureau show that these States received much less, in the aggregate, instead of more, than the quota of arms to which they were justly entitled under the law for arming the militia. It is a significant fact, utterly disproving the charge and the belligerent intent, that Arkansas, Kentucky, Louisiana, North Carolina and Texas did not receive any portion of army muskets of the very best quality to which they were entitled, and which would have been delivered to each on a simple application to the Ordnance Bureau. Of the muskets distributed the South received 2,091, and of long-range rifles of the army calibre, 758! Not enough to arm two full regiments!

Second. That Secretary Floyd sent cannon to the Southern States. If he did the fact could not have been concealed, for their size and ponderous weight would have made it impossible to escape detection. The committee reported that there

was no evidence that any cannon had been transported to the South. Secretary Floyd may have made an order for the transfer of guns, but it was never executed, and the officer in charge, Colonel Maynadier, said: "It never entered his mind that there could be any improper motive or object in the order."

Third. The committee extended their inquiry into the circumstances under which Secretary Floyd ordered the removal of the old percussion and flint-lock muskets from the Springfield armory, where they had accumulated in inconvenient numbers. These arms were to be removed from time to time, as might be most suitable for economy and transportation, and were to be distributed among the arsenals in proportion to their respective means of proper storage. These arms had been condemned by inspectors, and were recommended to be sold, and they were advertised for sale, but the bids did not average $1.50 each, and were not accepted. The committee did not in the slightest degree implicate Secretary Floyd. Alas! what becomes of Senator Sherman's conjured-up superior preparation for war and of General Scott's "good arms stolen"? It is of a piece with the rifle pitfalls with which Northern papers, after the Bull Run escapade, in which some Re-

publican congressmen shared, said the whole country was honeycombed.*

Secretary Floyd, by inheritance and conviction, was a thorough believer in State rights, but was opposed to secession and in favor of employing every right and proper expedient for averting or postponing it. His diary of the secret meetings and discussions of Mr. Buchanan's Cabinet, during November, 1860, shows how averse he was to what he regarded the unwise and precipitate action of South Carolina. He addressed himself with great assiduity to the task of repressing the disposition manifested by the Southern States to take forcible possession of the forts and arsenals within their limits, and just prior to the time alleged for his distribution of public arms for aiding the secession movement he had published, in a Richmond paper, a letter which gained him high credit at the North for his boldness in rebuking the pernicious views of many in his own State.†

It may not be impossible that this persistent perversion of history is intended to shield the North from any reproach that might attach to

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*See Reports of House Committee on Military Affairs, 9th January, 1861, and 18th February, 1861, Report No. 85.

†Pollard's Lee and His Lieutenants, pages 790–796, and Administration of Buchanan, page 220.

her because of inability, with her immense superiority of military resources, to make an early conquest of the South. Besides the enormous means at her command in aid of commissary, quartermaster and ordnance departments, the North recruited her largely preponderant armies by purchased "Hessians" from Europe, by enlistment of negroes, and by pecuniary stimulants for substitutes or volunteers offered by individuals and towns and States and the General Government.

The frauds practiced on the poor negroes in enlistments, in withholding bounties, in misapplication of what had been accumulated under orders of Butler and other generals, constitute a dark chapter in the mysterious history of the Freedmen's Bureau and in other unrecorded occurrences of the war. In 1870 was published the report of the commissioners on equalization of the municipal war debts by the General Assembly of Maine. It contains curious and disgraceful matters of history in regard to the method of furnishing men for the army and navy. It transpires in that official comment that "substitute brokers" did a business so important and profitable as to call for the formation of partnerships, which plied their "iniquitous transactions" so adroitly and actively and fraudulently as to obtain large sums,

"hundreds of thousands of dollars," for men who were never reported for duty. This "wrong" to the municipalities, "double and cruel wrong to the brave men lying in the trenches of the Appomattox and the James," occurred, says this merciless exposure, "when the army lay panting and exhausted in front of Petersburg," "when the government was calling loudly for recruits and new regiments," "when the gallant men were calling for help and succor," "when the conviction had been at last forced home upon the government that the people and the rebellion could only be subdued by being thoroughly whipped in its entrenched strongholds, and that to do this the army of freedom must be kept full and strong by constant reinforcements."*

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*See Portland *Advertiser*, January 31, 1870.

APPENDIX.

As information upon the constitutional and political status of the Confederate States Government and of the several State governments during the war, it is deemed not irrelevant to present a memorandum of several decisions of the Supreme Court.

It has frequently been decided by the Supreme Court of the United States that the Confederate States Government was an illegal organization, within the provision of the Constitution of the United States prohibiting any treaty, alliance, or confederation of one State with another; and whatever efficacy, therefore, its enactments possessed in any State entering into that organization must be attributed to the sanction given by that State.

It is further held that the Confederate Government was not a *de facto* government, within the meaning of that phrase as defined by the court, and that whatever *de facto* character might be ascribed to it consisted "solely in the fact that for nearly four years it maintained a contest with the United States, exercised dominion over a large extent of territory," and, "while it existed, that it was simply the *military representative* of the in-

surrection against the authority of the United States." When its military forces were overthrown, it utterly perished with all its enactments. See opinion of Judge Field in William *v.* Bruffy, 96 U. S. Reports, page 176, etc.; also, case of Hickman *v.* Jones, 9 Wallace's U. S. Reports, pages 197, 200; also, Stevens *v.* Griffith, 111 U. S. Reports, page 48, opinion by Mr. Justice Field.

In United States *v.* The Insurance Companies, 22 Wallace, pages 99, 101, Mr. Justice Strong, speaking of the so-called rebel Legislature of the State of Georgia, observed: "If not a Legislature of the State *de jure* it was at least a Legislature *de facto*. It was the only law-making body which had any existence. Its members acted under color of office, by an election, though not qualified according to the requirements of the Constitution of the United States." It was accordingly held that a corporation chartered by this Legislature for the purpose of conducting an insurance business, not being in hostility to any of the provisions of the Constitution, was a legal body, with authority to sue in the United States courts.

It was further said that all the enactments of the *de facto* legislatures in the insurrectionary States during the war, which were not hostile to the Union, or to the authority of the General Government, and which were not in conflict with the

Constitution of the United States or of the States, have the same validity as if they had been enactments of legitimate legislatures. Any other doctrine than this would work great and unnecessary hardship upon the people of those States, without any corresponding benefit to the citizens of the other States, and without any advantage to the National Government (page 103).

The court has also held that Tennessee and other State governments which entered into the formation of the Confederate States were *de facto* governments, having remained the same bodies politic during the rebellion as were organized and admitted originally into the Union; and, being the same political organizations during the rebellion and since, all their acts, legislative and otherwise, during the War between the States, were valid and obligatory on the State, except where they were done in aid of the rebellion, or were in conflict with the Constitution and laws of the United States, or were intended to impeach its authority. See opinion of Mr. Justice Miller in Keith *v.* Clark, 97 U. S. Reports, page 454, and authorities there cited.

The subject of the relation of the States to the Union, and of the questions raised by war, is ably discussed by the Hon. John Randolph Tucker in his work on the Constitution, lately issued.

PARALLEL CONSTITUTIONS.

CONSTITUTION OF THE UNITED STATES OF AMERICA.

We, the people of the United States, in order to form a more perfect union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this CONSTITUTION for the United States of America.

ARTICLE I.

SECTION 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

CONSTITUTION OF THE CONFEDERATE STATES OF AMERICA.

WE, the people of the *Confederate* States, *each State acting in its sovereign and independent character, in order to form a permanent federal government,* establish justice, insure domestic tranquility, and secure the blessings of liberty to ourselves and our posterity—*invoking the favor and guidance of Almighty God*—do ordain and establish this Constitution for the *Confederate* States of America.

ARTICLE I.

SECTION 1. All legislative powers herein *delegated* shall be vested in a Congress of the *Confederate* States, which shall consist of a Senate and House of Representatives.

SECTION 2. The House of Representatives shall be composed of members chosen every second year by the people of the several States; and the electors in each State shall *be citizens of the Confederate States, and* have the qualifications requisite for electors of the most numerous branch of the State Legislature; *but no person of foreign birth, not a citizen of the Confederate States, shall be allowed to vote for any officer, civil or political, State or Federal.*

No Person shall be a Representative who shall not have attained to the Age of twenty-five years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a term of years, and excluding Indians not taxed, three-fifths of all other Persons. The actual Enumeration shall be made within three Years after the first meeting of the Congress of the United States, and within every subsequent Term of Ten years, in such Manner as they shall by Law direct. The Number of the Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the

No person shall be a Representative who shall not have attained the age of twenty-five years, and *be a citizen of the Confederate* States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several States, which may be included within this *Confederacy,* according to their respective numbers, which shall be determined, by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all *slaves.* The actual enumeration shall be made within three years after the first meeting of the Congress of the *Confederate* States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every *fifty* thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of *South Carolina* shall be entitled to choose *six; the State of Georgia ten; the State of Alabama nine; the State of Florida two; the State of Mississippi seven; the State of Louisiana six; and the State of Texas six.*

When vacancies happen in the

Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other officers; and shall have the sole Power of impeachment.

SECTION 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third class at the Expiration of the sixth Year, so that one-third may be chosen every second year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature,

representation from any State, the Executive authority thereof shall issue writs of election to fill such vacancies.

The House of Representatives shall choose their Speaker and other officers; and shall have the sole power of impeachment; *except that any judicial or other Federal officer, resident and acting solely within the limits of any State, may be impeached by a vote of two-thirds of both branches of the Legislature thereof.*

SECTION 3. The Senate of the *Confederate* States shall be composed of two Senators from each State, chosen for six years by the Legislature thereof, *at the regular session next immediately preceding the commencement of the term of service;* and each Senator shall have one vote.

Immediately after they shall be assembled, in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year; of the second class at the expiration of the fourth year; and of the third class at the expiration of the sixth year; so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature

which shall then fill such Vacancies.

No person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two-thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and Disqualification to hold and enjoy any Office of Honour, Trust or Profit under the United States: but the party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

SECTION 4. The Times, Places

which shall then fill such vacancies.

No person shall be a Senator who shall not have attained the age of thirty years, and *be a citizen of the Confederate* States; and who shall not, when elected, be an inhabitant of *the* State for which he shall be chosen.

The Vice President of the *Confederate* States shall be President of the Senate, but shall have no vote unless they be equally divided.

The Senate shall choose their other officers; and also a President *pro tempore* in the absence of the Vice President, or when he shall exercise the office of President of the *Confederate* States.

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the *Confederate* States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit, under the *Confederate* States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment and punishment according to law.

SECTION 4. The times, places

and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof: but the Congress may at any time by Law make or alter such Regulations, except as to the places of chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

SECTION 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a majority of each shall constitute a Quorum to do Business; but a smaller number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two-thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one-fifth of those Present, be entered on the Journal.

and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof, *subject to the provisions of this Constitution;* but the Congress may, at any time, by law, make or alter such regulations, except as to the *times* and places of choosing Senators.

The Congress shall assemble at least once in every year; and such meeting shall be on the first Monday in December, unless they shall, by law, appoint a different day.

SECTION 5. Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide.

Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two-thirds of the whole number expel a member.

Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either House, on any question, shall, at the desire of one-fifth of those present, be entered on the journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

SECTION 6. The Senators and Representatives shall receive a compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same, and for any Speech or Debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

SECTION 7. All Bills for rais-

Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SECTION 6. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the *Confederate* States. They shall, in all cases, except treason, felony, and breach of peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the *Confederate* States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the *Confederate* States shall be a member of either House during his continuance in office. ***But Congress may, by law, grant to the principal officer in each of the Executive Departments a seat upon the floor of either House, with the privilege of discussing any measures appertaining to his department.***

SECTION 7. All bills for rais-

ing Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; if he approve, he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two-thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a Law. But in all such Cases the Votes of Both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

ing *the* revenue shall originate in the House of Representatives; but the Senate may propose or concur with the amendments, as on other bills.

Every bill which shall have passed *both Houses,* shall, before it becomes a law, be presented to the President of the *Confederate* States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law. But in all such cases, the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress, by their adjournment, prevent its return; in which case it shall not be a law. *The President may approve any appropriation and disapprove any other appropria-*

Every Order, Resolution, or Vote, to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

SECTION 8. The Congress shall have Power

To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

tion in the same bill. In such case he shall, in signing the bill, designate the appropriations disapproved; and shall return a copy of such appropriations, with his objections, to the House in which the bill shall have originated; and the same proceedings shall then be had as in case of other bills disapproved by the President.

Every order, resolution or vote, to which the concurrence of *both Houses* may be necessary, (except on a question of adjournment,) shall be presented to the President of the *Confederate* States; and, before the same shall take effect, shall be approved by him; or, being disapproved, shall be re-passed by two-thirds of *both Houses*, according to the rules and limitations prescribed in case of a bill.

SECTION 8. The Congress shall have power—

To lay and collect taxes, duties, imposts, and excises, *for revenue necessary* to pay the debts, provide for the common defence, *and carry on the government of the Confederate* States; *but no bounties shall be granted from the treasury; nor shall any duties or taxes on importations from foreign nations be laid to promote or foster any branch of industry; and all duties, imposts, and excises shall be uniform throughout the Confederate States:*

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To borrow money on the credit of the *Confederate* States:

To regulate commerce with foreign nations, and among the several States, and with the Indian tribes; *but neither this, nor any other clause contained in the constitution, shall ever be construed to delegate the power to Congress to appropriate money for any internal improvement intended to facilitate commerce; except for the purpose of furnishing lights, beacons, and buoys, and other aids to navigation upon the coasts, and the improvement of harbors and the removing of obstructions in river navigation, in all which cases, such duties shall be laid on the navigation facilitated thereby, as may be necessary to pay the costs and expenses thereof:*

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To establish uniform *laws* of naturalization, and uniform laws on the subject of bankruptcies, throughout the *Confederate* States; *but no law of Congress shall discharge any debt contracted before the passage of the same:*

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To coin money, regulate the value thereof and of foreign coin, and fix the standard of weights and measures:

To provide for the punishment of counterfeiting the securities and current coin of the *Confederate* States:

To establish post-offices and post *routes; but the expenses of the Post-office Department, after the first day of March in the year of our Lord eighteen hun-*

To promote the progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and discoveries;

To constitute Tribunals inferior to the Supreme Court;

To define and punish Piracies and Felonies commited on the high seas, and Offences against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel invasion;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the Discipline prescribed by Congress;

To exercise exclusive Legisla-

dred and sixty-three, shall be paid out of its own revenue:

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries:

To constitute tribunals inferior to the Supreme Court:

To define and punish piracies and felonies committed on the high seas, and offences against the law of nations:

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and on water:

To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years:

To provide and maintain a navy:

To make rules for the government and regulation of the land and naval forces:

To provide for calling forth the militia to execute the laws of the *Confederate* States, suppress insurrections, and repel invasions:

To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the *Confederate* States; reserving to the States, respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress:

To exercise exclusive legisla-

tion in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, Dock Yards, and other needful Buildings;—And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

SECTION 9. The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or Duty may be imposed on such Importation, not exceeding ten dollors for each Person.

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

tion, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of *one or more* States and the acceptance of Congress, become the seat of the government of the *Confederate* States: and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings: and

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the *Confederate* State, or in any department or officer thereof.

SECTION 9. The importation of *negroes of the African race, from any foreign country other than the slaveholding States or Territories of the United States of America, is hereby forbidden; and Congress is required to pass such laws as shall effectually prevent the same.*

Congress shall also have power to prohibit the introduction of slaves from any State not a member of, or Territory not belonging to, this Confederacy.

The privilege of the writ of *habeas corpus* shall not be suspended, unless when in case of rebellion or invasion the public safety may require it.

No bill of attainder, *ex post facto* law, *or law denying or im-*

No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another; nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

pa[i]ring the right of property in negro slaves shall be passed.

No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

No tax or duty shall be laid on articles exported from any State, *except by a vote of two-thirds of both Houses.*

No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

Congress shall appropriate no money from the treasury, except by a vote of two-thirds of both Houses, taken by yeas and nays, unless it be asked and estimated for by some one of the heads of departments, and submitted to Congress by the President; or for the purpose of paying its own expenses and contingencies; or for the payment of claims against the Confederate States, the justice of which shall have been judicially declared by a tribunal for the investigation of claims against the government, which it is

hereby made the duty of Congress to establish.

. All bills appropriating money shall specify in federal currency the exact amount of each appropriation and the purposes for which it is made; and Congress shall grant no extra compensation to any public contractor, officer, agent or servant, after such contract shall have been made or such service rendered.

No Title of Nobility shall be granted by the United States; and no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

No title of nobility shall be granted by the *Confederate* States; and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office or title of any kind whatever, from any king, prince, or foreign state.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble and petition the government for a redress of grievances.

A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

The right of the people to be secure in their persons, houses,

papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense, to be twice put in jeopardy of life or limb; nor be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use, without just compensation.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact *so* tried by a jury shall be otherwise re-examined in any court of the *Confederacy,* than according to the rules of common law.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

Every law, or resolution having the force of law, shall relate to but one subject, and that shall be expressed in the title.

SECTION 10. No State shall enter into any Treaty, Alliance, or Confederation: grant Letters of Marque and Reprisal; coin money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

SECTION 10. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, or *ex post facto* law, or law impairing the obligation of contracts; or grant any title of nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws; and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the nett produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the *Confederate* States; and all such laws shall be subject to the revision and control of Congress.

No State shall, without the

Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of Delay.

ARTICLE II.

SECTION 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress:

consent of Congress, lay any duty *on* tonnage, *except on seagoing vessels, for the improvement of its rivers and harbors navigated by the said vessels; but such duties shall not conflict with any treaties of the Confederate States with foreign nations; and any surplus revenue thus derived, shall, after making such improvement, be paid into the common treasury. Nor shall any* State keep troops or ships-of-war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay. *But when any river divides or flows through two or more States, they may enter into compacts with each other to improve the navigation thereof.*

ARTICLE II.

SECTION 1. The executive power shall be vested in a President of the *Confederate* States of America. *He and the Vice President shall hold their offices* for the term of *six* years; *but the President shall not be re-eligible. The President and the Vice President shall* be elected as follows:

Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress;

but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the president of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; a Quorum for this Purpose shall

but no Senator or Representative or person holding an office of trust or profit under the *Confederate* States, shall be appointed an elector.

The electors shall meet in their respective States and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President, and they shall make distinct lists of all persons voted for as President, and all persons voted for as Vice President, and of the number of votes for each, which list they shall sign and certify, and transmit, sealed, to the seat of the government of the *Confederate* States, directed to the President of the Senate; the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such a majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President,

consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President, but if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice-President.

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

the votes shall be taken by States —the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of the death, or other constitutional disability of the President.

The person having the greatest number of votes as Vice President, shall be the Vice President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the *Confederate* States.

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the *Confederate* States.

No person except a natural-born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the age of thirty five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said office, the same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation, or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall

No person except a natural born citizen of the *Confederate* States, or a citizen thereof at the time of the adoption of this Constitution, *or a citizen thereof born in the United States prior to the 20th of December, 1860,* shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained the age of thirty-five years, and been fourteen years a resident within the *limits of the Confederate* States, *as they may exist at the time of his election.*

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President; and the Congress may, by law, provide for the case of removal, death, resignation, or inability, both of the President and Vice President, declaring what officer shall then act as President; and such officer shall act accordingly, until the disability be removed or a President shall be elected.

The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive within that period any other emolument from the *Confederate* States, or any of them.

Before he enters on the execution of his office, he shall take

take the following Oath or Affirmation:

"I do solemnly swear (or "Affirm) that I will faithfully "execute the Office of President "of the United States, and will "to the best of my Ability, pre- "serve, protect and defend the "Constitution of the United "States."

SECTION 2. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate. to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law; but the Congress may by Law vest the Appointment of such in-

the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the *Confederate* States, and will, to the best of my ability, preserve, protect, and defend the Constitution *thereof.*"

SECTION 2. The President shall be commander-in-chief of the army and navy of the *Confederate* States, and of the militia of the several States, when called into the actual service of the *Confederate* States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the *Confederate* States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the Senate, to make treaties; provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the *Confederate* States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may, by law, vest the appointment of

ferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have the Power to fill all Vacancies that may happen during the Recess of the Senate, by granting Commission which shall expire at the End of their next Session.

SECTION 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall

such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

The principal officer in each of the executive departments, and all persons connected with the diplomatic service, may be removed from office at the pleasure of the President. All other civil officers of the executive department may be removed at any time by the President, or other appointing power, when their services are unnecessary, or for dishonesty, incapacity, inefficiency, misconduct, or neglect of duty; and when so removed, the removal shall be reported to the Senate, together with the reasons therefor.

The President shall have power to fill all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session; *but no person rejected by the Senate shall be reappointed to the same office during their ensuing recess.*

SECTION 3. *The President* shall, from time to time, give to the Congress information of the state of the *Confederacy,* and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them; and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think

receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the officers of the United States.

SECTION 4. The President, Vice President and all civil Officers of the United States shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

ARTICLE III.

SECTION 1. The Judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their offices during good Behavior, and shall, at stated times, receive for their Services a Compensation which shall not be diminished during their Continuance in Office.

SECTION 2. The Judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States and Treaties made, or which shall be made under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two

proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the *Confederate* States.

SECTION 4. The President, Vice President, and all civil officers of the *Confederate* States, shall be removed from office on impeachment, for and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

SECTION 1. The judicial power of the *Confederate* States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

SECTION 2. The judicial power shall extend to all cases arising under this Constitution, the laws of the *Confederate* States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the *Confederate* States shall be a party; to controversies between two or more States; between a State

or more States;—between a State and Citizens of another State;—between Citizens of different States, between Citizens of the same State claiming Lands under Grants of different States and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

SECTION 3. Treason against the United States, shall consist only in levying War against them, or in adhering to their enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have Power to declare the Punishment of

and citizens of another State, *where the State is plaintiff;* between citizens claiming lands under grants of different States; and between a State or the citizens thereof, and foreign states, citizens or subjects. *But no State shall be sued by a citizen or subject of any foreign state.*

In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

SECTION 3. Treason against the *Confederate* States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The Congress shall have power to declare the punishment of

Treason, but no Attainder of Treason shall work corruption of Blood, or Forfeiture except during the Life of the Person attained.

ARTICLE IV.

SECTION 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

SECTION 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service

treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.

SECTION 1. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

SECTION 2. The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States; *and shall have the right of transit and sojourn in any State of this Confederacy, with their slaves and other property; and the right of property in said slaves shall not be thereby impaired.*

A person charged in any State with treason, felony, or other crime *against the laws of such State,* who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

No slave or other person held to service or labor *in any State or Territory of the Confederate States,* under the laws thereof, escaping *or lawfully carried* into another, shall, in conse-

or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be done.

SECTION 3. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

quence of any law or regulation therein, be discharged from such service or labor: but shall be delivered up on claim of the party *to whom such slave belongs, or* to whom such service or labor may be due.

SECTION 3. *Other States may be admitted into this Confederacy by a vote of two-thirds of the whole House of Representatives and two-thirds of the Senate, the Senate voting by States;* but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned, as well as of the Congress.

The Congress shall have power to dispose of and make all needful rules and regulations *concerning* the *property of the Confederate* States, *including the lands thereof.*

The Confederate States may acquire new territory; and Congress shall have power to legislate and provide governments for the inhabitants of all territory belonging to the Confederate States, lying without the limits of the several States; and may permit them at such times and in such manner as it may by law provide, to form States to be admitted into the Confederacy. In all such territory, the institution of negro slavery, as it now exists in the Confederate States, shall be recognized and

SECTION 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion, and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

ARTICLE V.

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or on the application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress: Provided that no Amendment which may be made prior to the Year one thousand eight hundred and eight shall in any

protected by Congress and by the territorial government: and the inhabitants of the several Confederate States and Territories shall have the right to take to such territory any slaves lawfully held by them in any of the States or Territories of the Confederate States.

The *Confederate* States shall guarantee to every State *that now is, or hereafter may become, a member of this Confederacy,* a republican form of government; and shall protect each of them against invasion; and on application of the legislature (or of the executive, when the legislature *is not in session*), against domestic violence.

ARTICLE V.

SECTION 1. *Upon the demand of any three States, legally assembled in their several conventions, the Congress shall summon a convention of all the States, to take into consideration such amendments to the Constitution as the said States shall concur in suggesting at the time when the said demand is made; and should any of the proposed amendments to the Constitution be agreed on by the said convention — voting by States—and the same be ratified by the legislatures of two-thirds of the several States, or by conventions in two-thirds thereof*—as the one or the other mode of ratification may be proposed by the *general convention —they shall thenceforward form*

Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI.

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive

a part of this Constitution. **But** no State shall, without its consent, be deprived of its equal *representation* **in the Senate.**

ARTICLE VI.

The Government established by this Constitution is the successor of the Provisional Government of the Confederate States of America, and all the laws passed by the latter shall continue in force until the same shall be repealed or modified; and all the officers appointed by the same shall remain in office until their successors are appointed and qualified, or the offices abolished.

All debts contracted and engagements entered into before the adoption of this Constitution shall be as valid against the *Confederate* States under this Constitution as under the *Provisional Government.*

This Constitution, and the laws of the *Confederate* States made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the *Confederate* States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

The Senators and Representatives before mentioned, and the members of the several State legislatures, and all executive

and judicial Officers, both of the United States and of the several States, shall be bound by Oath, or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

and judicial officers, both of the *Confederate* States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the *Confederate* States.

The enumeration, in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people *of the several States.*

The powers not delegated to the *Confederate* States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people *thereof.*

ARTICLE VII.

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

ARTICLE VII.

The ratification of the conventions of *five* States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

When five States shall have ratified this Constitution, in the manner before specified, the Congress under the Provisional Constitution shall prescribe the time for holding the election of President and Vice President; and for the meeting of the Electoral College; and for counting the votes, and inaugurating the President. They shall, also, prescribe the time for holding the first election of members of Congress under this Constitution, and the time for assembling the same. Until the assembling of such Congress, the Congress un-

der the Provisional Constitution shall continue to exercise the legislative powers granted them; not extending beyond the time limited by the Constitution of the Provisional Government.

DONE in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independance of the United States of America the Twelfth. IN WITNESS whereof We have hereunto subscribed our Names,

GEO WASHINGTON—
Presidt and deputy from Virginia

New Hampshire.
JOHN LANGDON,
NICHOLAS GILMAN.
Massachusetts.
NATHANIEL GORHAM,
RUFUS KING.
Connecticut.
WM. SAML. JOHNSON,
ROGER SHERMAN.
New York.
ALEXANDER HAMILTON.
New Jersey.
WIL: LIVINGSTON,
WM. PATERSON,
DAVID BREARLEY,
JONA. DAYTON.
Pennsylvania.
B. FRANKLIN,
ROBT. MORRIS,
THO: FITZSIMONS,
JAMES WILSON,

ADOPTED unanimously by the Congress of the Confederate States of South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana and Texas, sitting in Convention at the capitol, in the city of Montgomery, Alabama, on the Eleventh day of March, in the year Eighteen Hundred and Sixty-One.

HOWELL COBB,
President of the Congress.

South Carolina.
R. BARNWELL RHETT,
C. G. MEMMINGER,
WM. PORCHER MILES,
JAMES CHESNUT, JR.,
R. W. BARNWELL,
WILLIAM W. BOYCE,
LAWRENCE M. KEITT,
T. J. WITHERS.
Georgia.
FRANCIS S. BARTOW,
MARTIN J. CRAWFORD,
BENJAMIN H. HILL,
THOS. R. R. COBB.
Florida.
JACKSON MORTON,
J. PATTON ANDERSON,
JAMES B. OWENS.
Alabama.
RICHARD W. WALKER,
ROBT. H. SMITH,

THOMAS MIFFLIN,
GEO: CLYMER,
JARED INGERSOLL,
GOUV: MORRIS.

Delaware.
GEO: READ,
JOHN DICKINSON,
JACO: BROOM.
GUNNING BEDFORD, Jun'r,
RICHARD BASSETT.

Maryland.
JAMES M'HENRY,
DAN: OF ST. THOS. JENIFER.
DANL. CARROLL.

Virginia.
JOHN BLAIR,
JAMES MADISON, Jr.

North Carolina.
WM. BLOUNT,
RICH'D DOBBS SPAIGHT,
HU. WILLIAMSON.

South Carolina.
J. RUTLEDGE,
CHARLES COTESWORTH PINCKNEY,
CHARLES PINCKNEY,
PIERCE BUTLER.

Georgia.
WILLIAM FEW,
ABR. BALDWIN.

Attest:
WILLIAM JACKSON,
Secretary.

COLIN J. MCRAE,
WILLIAM P. CHILTON,
STEPHEN F. HALE,
DAVID P. LEWIS,
THO. FEARN,
JNO. GILL SHORTER,
J. L. M. CURRY.

Mississippi.
ALEX. M. CLAYTON,
JAMES T. HARRISON,
WILLIAM S. BARRY,
W. S. WILSON,
WALKER BROOKE,
W. P. HARRIS,
J. A. P. CAMPBELL.

Louisiana.
ALEX. DE CLOUET,
C. M. CONRAD,
DUNCAN F. KENNER,
HENRY MARSHALL.

Texas.
JOHN HEMPHILL,
THOMAS N. WAUL,
JOHN H. REAGAN,
WILLIAMSON S. OLDHAM,
LOUIS T. WIGFALL.
JOHN GREGG,
WILLIAM BECK OCHILTREE.

EXTRACT FROM THE JOURNAL OF THE CONGRESS.

CONGRESS, March 11, 1861.

On the question of the adoption of the Constitution of the Confederate States of America, the vote was taken by yeas and nays; and the Constitution was unanimously adopted, as follows:

Those who voted in the affirmative being Messrs. Walker, Smith, Curry, Hale, McRae, Shorter, and Fearn, of Alabama, (Messrs. Chilton and Lewis being absent); Messrs. Morton, Anderson, and Owens, of Florida; Messrs. Toombs, Howell Cobb, Bartow, Nisbet, Hill, Wright, Thos. R. R. Cobb, and Stephens, of Georgia, (Messrs. Crawford and Kenan being absent); Messrs. Perkins, de Clouet, Conrad, Kenner, Sparrow, and Marshall, of Louisiana; Messrs. Harris, Brooke, Wilson, Clayton, Barry, and Harrison, of Mississippi, (Mr. Campbell being absent); Messrs. Rhett, Barnwell, Keitt, Chesnut, Memminger, Miles, Withers, and Boyce, of South Carolina; Messrs. Reagan, Hemphill, Waul, Gregg, Oldham, and Ochiltree, of Texas, (Mr. Wigfall being absent).

A true copy:

J. J. HOOPER,
Secretary of the Congress.

CONGRESS, March 11, 1861.

I do hereby certify that the foregoing are, respectively, true and correct copies of "The Constitution of the Confederate States of America," unanimously adopted this day, and of the yeas and nays on the question of the adoption thereof.

HOWELL COBB,
President of the Congress.

The following is prefixed to the first ten Amendments:

"CONGRESS OF THE UNITED STATES,

"Begun and held at the City of New York, on Wednesday, the fourth of March, one thousand seven hundred and eighty-nine.

"The Conventions of a number of the States, having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best insure the beneficent ends of its institution;

"*Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled,* two thirds of both Houses concurring, That the following Articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States, all, or any of which articles, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes, as part of the said Constitution; viz.

"Articles in addition to, and Amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States pursuant to the fifth article of the original Constitution."

Articles in Addition to, and Amendment of, the Constitution of the United States of America. Proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth article of the original Constitution.

ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

ARTICLE II.

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

ARTICLE III.

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any Criminal Case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ARTICLE VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have Compulsory process for obtaining Witnesses in his favour, and to have the Assistance of Counsel for his defence.

ARTICLE VII.

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

ARTICLE IX.

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ARTICLE X.

The powers not delegated to the United States by the Constitu-

tion, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ARTICLE XI.

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against any of the United States by citizens of another State, or by citizens or subjects of any foreign State.

ARTICLE XII.

The Electors shall meet in their respective states, and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and certify, and transmit, sealed to the seat of the government of the United States, directed to the President of the Senate;—The President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote: a quorum for this purpose shall consist of a member or members from two thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of death or other constitutional disability of the President:—The person having the greatest number of votes as Vice President, shall be the Vice President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally in-

eligible to the office of President shall be eligible to that of Vice President of the United States.

ARTICLE XIII.

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV.

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SECTION 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, representatives in Congress, the executive or judicial officers of a state, or the members of the Legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

SECTION 3. No person shall be a senator or representative in Congress, or elector of President or Vice-President, or hold any office, civil or military, under the United States, or under any state, who having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any state Legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each house, remove such disability.

SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pen-

sions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SECTION 5. Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV.

SECTION 1. The rights of citizens of the United States to vote shall not be denied or abridged by the United States, or by any state, on account of race, color, or previous condition of servitude.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

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